

Friday  
April 4, 1986

# Federal Register

**Briefings on How To Use the Federal Register—**  
For information on briefings in Dallas, TX, see  
announcement on the inside cover of this issue.

## Selected Subjects

- Administrative Practice and Procedure**  
National Foundation on Arts and Humanities
- Agricultural Research**  
Agricultural Marketing Service
- Antibiotics**  
Food and Drug Administration
- Aviation Safety**  
Federal Aviation Administration
- Chemicals**  
Environmental Protection Agency
- Government Employees**  
Personnel Management Office
- Government Property Management**  
General Services Administration
- Grant Programs—Transportation**  
Federal Highway Administration
- Housing**  
Farmers Home Administration
- Marine Safety**  
Coast Guard
- Milk Marketing Orders**  
Agricultural Marketing Service
- Radio Broadcasting**  
Federal Communications Commission

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**How To Cite This Publication:** Use the volume number and the page number. Example: 51 FR 12345.

## Selected Subjects

### Reporting and Recordkeeping Requirements

Health Care Financing Administration

### Surface Mining

Surface Mining Reclamation and Enforcement Office

### Television Broadcasting

Federal Communications Commission

### Water Pollution Control

Environmental Protection Agency

### THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

**FOR:** Any person who uses the Federal Register and Code of Federal Regulations.

**WHO:** The Office of the Federal Register.

**WHAT:** Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### DALLAS, TX

**WHEN:** April 23; at 1:30 pm.

**WHERE:** Room 7A23,  
Earl Cabell Federal Building,  
1100 Commerce Street, Dallas, TX

### RESERVATIONS:

local number  
Dallas 214-767-8585  
Ft. Worth 817-334-3624  
Austin 512-472-5494  
Houston 713-229-2552  
San Antonio 512-224-4471,  
for reservations



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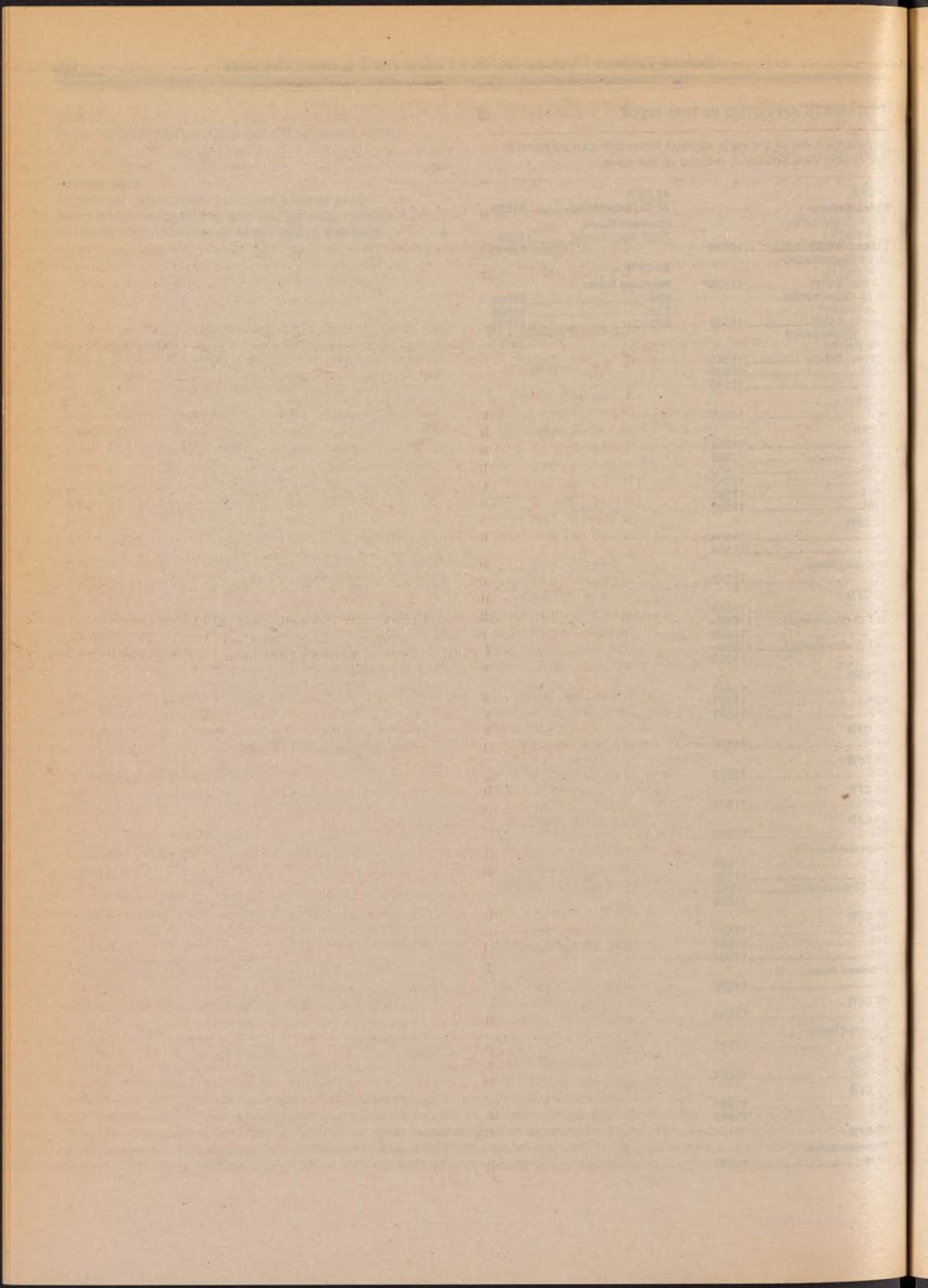
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# Presidential Documents

Title 3—

The President

Proclamation 5452 of March 31, 1986

## To Withdraw Preferential Treatment Under the Generalized System of Preferences for Certain Ethanol Mixtures

By the President of the United States of America

### A Proclamation

1. Section 504(a) of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2464(a)), provides that the President may withdraw, suspend, or limit the application of the duty-free treatment accorded under section 501 of the Trade Act, as amended (19 U.S.C. 2461), with respect to any article or with respect to any country for purposes of the Generalized System of Preferences (GSP). Section 504(a) further provides that, in the event of such withdrawal, suspension, or limitation, the rate of duty to be imposed thereafter on such article is the rate which would apply in the absence of the preferential treatment accorded under the GSP.

2. On the basis of advice from the United States Trade Representative, and after taking into account the factors set forth in section 501 of the Trade Act, I have determined, pursuant to section 504(a) of the Trade Act, that it is appropriate to withdraw the application of duty-free treatment under the GSP to certain chemical mixtures containing ethyl alcohol (ethanol). Accordingly, the nomenclature of certain existing items of the TSUS must be subdivided and amended to provide for such withdrawal.

3. Section 604 of the Trade Act (19 U.S.C. 2483) confers authority upon the President to embody in the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) the substance of the relevant provisions of that Act, of other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to Title V and section 604 of the Trade Act of 1974, do proclaim that:

(1)(a) In order to withdraw benefits of the GSP for certain chemical mixtures containing ethanol the TSUS is modified as set forth in section A of the Annex to this proclamation.

(b) In order to continue the existing preferential treatment of other articles previously designated as eligible for benefits of the GSP and provided for in new items created by the Annex to this proclamation, the Rates of Duty Special column for items 407.13, 413.54, and 432.28, inclusive, shall contain the duty rate of "Free" followed by the symbol "A" in parentheses, and such column for item 407.19 shall contain the duty rate of "Free" followed by the symbol "A\*" in parentheses.

(2)(a) In order to provide staged reductions in the rates of duty and to continue existing tariff treatment for products of least developed developing countries and for products of designated beneficiaries under the Caribbean Basin Economic Recovery Act for those new TSUS items created by section A of the Annex to this proclamation, Annex III to Proclamation 4707 of December 11, 1979, Annex III to Proclamation 4768 of June 28, 1980, and Annexes V, VI, and IX to Proclamation 5365 of August 30, 1985, are superseded to the extent inconsistent with this proclamation.



(b) Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1987, the rates of duty set forth in the Rates of Duty 1 column in the following new TSUS items created by section A of the Annex to this proclamation shall be stricken and the rates of duty provided by section B of such Annex inserted in lieu thereof: 407.11, 407.13, 413.52, 413.54, 432.26, and 432.28, inclusive.

(c) Effective with respect to articles the product of Israel which are entered, or withdrawn from warehouse for consumption, on or after the dates specified in section C of the Annex to this proclamation, the rate of duty set forth in the Rates of Duty Special column followed by the symbol "I" in parentheses for each of the new TSUS items created by section A of such Annex shall be stricken and the rate of duty provided in section C of such Annex inserted in lieu thereof.

(3) General headnote 3(e)(v)(D) to the TSUS is modified by striking out "407.16 . . . Mexico" and by inserting in lieu thereof "407.19 . . . Mexico".

(4) The amendments made by this proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after the date of signature of this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of March, in the year of our Lord nineteen hundred and eighty-six, and of the independence of the United States of America the two hundred and tenth.

*Ronald Reagan*



## ANNEX

## GENERAL MODIFICATIONS OF THE TARIFF SCHEDULES OF THE UNITED STATES

## Notes:

1. Bracketed matter is included to assist in the understanding of ordered modifications.
2. The following supersedes matter now in the Tariff Schedules of the United States (TSUS). The items and superior descriptions are set forth in columnar form, and material in such columns is inserted in the columns of the TSUS designated "Item", "Articles", "Rates of Duty 1", "Rates of Duty Special", and "Rates of Duty 2", respectively.

Subject to the above notes the TSUS is modified as follows:

Section A. Effective as to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of this proclamation.

1. Item 407.09 is superseded by:

[Mixtures . . .]

"Solvents which contain over 25 percent by weight of any of the products provided for in this subpart:

407.11	Containing ethyl alcohol.....	8.5% ad val., but not less than the highest rate applicable to any component material	7.4% ad val., but not less than the highest rate applicable to any component material (D, I) Free (E)	7¢ per lb. + 43.5% ad val., but not less than the highest rate applicable to any component material
407.13	Other.....	8.5% ad val., but not less than the highest rate applicable to any component material	7.4% ad val., but not less than the highest rate applicable to any component material (D, I) Free (A, E)	7¢ per lb. + 43.5% ad val., but not less than the highest rate applicable to any component material"

2. Item 407.16 is superseded by:

[Mixtures....]

[Other:]

"Other:

407.17	Containing ethyl alcohol.....	1.7¢ per lb. + 13.6% ad val., but not less than the highest rate applicable to any component material	Free (E) 1.7¢ per lb. + 13.6% ad val., but not less than the highest rate applicable to any component material (I) (s)	7¢ per lb. + 43.5% ad val., but not less than the highest rate applicable to any component material
407.19	Other.....	1.7¢ per lb. + 13.6% ad val., but not less than the highest rate applicable to any component material	Free (A*, E) 1.7¢ per lb. + 13.6% ad val., but not less than the highest rate applicable to any component material (I) (s)	7¢ per lb. + 43.5% ad val., but not less than the highest rate applicable to any component material"



TABLE

2"

## 3. Item 413.31 is superseded by:

[Mixtures . . .]

"Other:

413.52	Containing ethyl alcohol.....	11.9% ad val., but not less than the highest rate applicable to any component material	10% ad val., but not less than the highest rate applicable to any component material (D, I) Free (E)	7c per lb. + 46% ad val., but not less than the highest rate applicable to any component material
413.54	Other.....	11.9% ad val., but not less than the highest rate applicable to any component material	10% ad val., but not less than the highest rate applicable to any component material (D, I) Free (A, E)	7c per lb. + 46% ad val., but not less than the highest rate applicable to any component material"

## 4. Item 432.25 is superseded by:

[Mixtures . . .]

[Other:]

"Other:

432.26	Containing ethyl alcohol.....	3.9% ad val., but not less than the highest rate applicable to any component material	3.7% ad val., but not less than the highest rate applicable to any component material (D, I) Free (E)	25% ad val., but not less than the highest rate applicable to any component material
432.28	Other.....	3.9% ad val., but not less than the highest rate applicable to any component material	3.7% ad val., but not less than the highest rate applicable to any component material (D, I) Free (A, E)	25% ad val., but not less than the highest rate applicable to any component material"



## ANNEX

-3-

Section B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1987, the rates of duty in the Rates of Duty I column for the following items of the TSUS are stricken and the rates of duty set forth below opposite those items are inserted in lieu thereof:

407.11.....7.4% ad val., but not less than the highest rate applicable to any component material

407.13.....7.4% ad val., but not less than the highest rate applicable to any component material

413.52.....10% ad val., but not less than the highest rate applicable to any component material

413.54.....10% ad val., but not less than the highest rate applicable to any component material

432.26.....3.7% ad val., but not less than the highest rate applicable to any component material

432.28.....3.7% ad val., but not less than the highest rate applicable to any component material

Section C. Effective with respect to articles the product of Israel which are entered, or withdrawn from warehouse for consumption, on or after the dates set forth below, the rate of duty set forth in the Rates of Duty Special column followed by the symbol "I" in parentheses for the following TSUS items is stricken and the rate of duty set forth below opposite those items is inserted in lieu thereof:

1. Effective January 1, 1987:

407.11.....3% ad val., but not less than the highest rate applicable to any component material

407.13.....3% ad val., but not less than the highest rate applicable to any component material

407.17.....0.7¢ per lb. + 5.4% ad val., but not less than the highest rate applicable to any component material

407.19.....0.7¢ per lb. + 5.4% ad val., but not less than the highest rate applicable to any component material

413.52.....4% ad val., but not less than the highest rate applicable to any component material

413.54.....4% ad val., but not less than the highest rate applicable to any component material

432.26.....1.5% ad val., but not less than the highest rate applicable to any component material

432.28.....1.5% ad val., but not less than the highest rate applicable to any component material

[FR Doc. 86-7569

Filed 4-2-86; 11:01 am]

Billing code 3195-01-C



The American Medical Association is a non-profit corporation organized for the purpose of promoting the interests of the medical profession and the public. It was founded in 1847 and has since that time been engaged in a constant struggle for the improvement of the medical profession and the betterment of the public health. The Association's efforts have been directed towards the advancement of medical science, the improvement of medical education, the promotion of medical research, and the betterment of the public health. The Association has achieved many of its aims and has made many contributions to the medical profession and the public. It has been successful in securing the recognition of the medical profession as a learned profession, in securing the establishment of medical schools, in securing the improvement of medical education, in securing the promotion of medical research, and in securing the betterment of the public health. The Association's efforts have been rewarded by the respect and confidence of the medical profession and the public. It has become one of the most powerful and influential organizations in the medical profession and the public. The Association's work is of great importance to the medical profession and the public. It is the duty of every member of the Association to support its work and to contribute to its success. The Association's work is of great importance to the medical profession and the public. It is the duty of every member of the Association to support its work and to contribute to its success.



## Presidential Documents

Proclamation 5453 of March 31, 1986

### Amending the Generalized System of Preferences

By the President of the United States of America

#### A Proclamation

1. Pursuant to Title V of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2461 *et seq.*), in Proclamation 5365 of August 30, 1985 (50 FR 36220), I designated specified articles provided for in the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) as eligible for preferential tariff treatment under the Generalized System of Preferences (GSP) when imported from designated beneficiary developing countries. I also designated certain such countries as least-developed beneficiary developing countries, pursuant to section 504(c)(6) of the Trade Act, as amended (19 U.S.C. 2464(c)(6)), in order to afford such preferential tariff treatment without regard to the limitations imposed in section 504(c), as amended.
  2. Pursuant to section 504(c) of the Trade Act, as amended, those beneficiary countries not designated as least-developed beneficiary developing countries are subject to limitations on the preferential treatment afforded under the GSP. Pursuant to section 504(c)(5) of the Trade Act, as amended, a country which has not been treated as a beneficiary developing country with respect to an eligible article may be redesignated with respect to such article, if imports of such article from such country did not exceed the limitations in section 504(c)(1) during the preceding calendar year. Further, pursuant to section 504(d)(1) of the Trade Act, as amended (19 U.S.C. 2464(d)(1)), the limitation provided in section 504(c)(1)(B) shall not apply with respect to an eligible article if a like or directly competitive article was not produced in the United States on January 3, 1985.
  3. I have determined, pursuant to section 504(a) and (c)(1) of the Trade Act, that certain beneficiary developing countries should no longer receive preferential tariff treatment under the GSP with respect to certain previously designated eligible articles. I have also determined, pursuant to section 504(c)(5) of the Trade Act, that certain countries should be redesignated as beneficiary developing countries with respect to specified previously designated eligible articles. These countries have been excluded from the benefits of the GSP with respect to such eligible articles pursuant to section 504(c)(1) of the Trade Act. Further, I have determined that section 504(c)(1)(B) of the Trade Act should not apply with respect to certain eligible articles because no like or directly competitive article was produced in the United States on January 3, 1985.
  4. Section 604 of the Trade Act (19 U.S.C. 2483) confers authority upon the President to embody in the TSUS the substance of the relevant provisions of that Act, of other acts affecting import treatment, and of actions taken thereunder.
- NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to Title V and section 604 of the Trade Act of 1974, do proclaim that:
- (1) In order to provide preferential tariff treatment under the GSP to certain countries which have been excluded from the benefits of the GSP for certain eligible articles imported from such countries, following my determination that a country not previously receiving such benefits should again be treated as a



beneficiary developing country with respect to such article, the Rates of Duty Special column for each of the TSUS items enumerated in Annex I to this proclamation is modified: (a) by deleting from such column for such TSUS items the symbol "A\*" in parentheses, and (b) by inserting in such column the symbol "A" in lieu thereof.

(2) In order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to an eligible article for purposes of the GSP, the Rates of Duty Special column for the TSUS items enumerated in Annex II to this proclamation is modified: (a) by deleting from each such item the symbol "A" in parentheses, and (b) by inserting in such column the symbol "A\*" in lieu thereof.

(3) General headnote 3(e)(v)(D) to the TSUS, listing those articles that are eligible for benefits of the GSP except when imported from the beneficiary countries listed opposite the enumerated TSUS items for those articles, is modified as provided in Annex III to this proclamation.

(4) The eligible articles imported from designated beneficiary developing countries and provided for in the TSUS items enumerated in Annex IV to this proclamation shall not be subject to the limitations of section 504(c)(1)(B) of the Trade Act, as amended.

(5) Proclamation 5365 of August 30, 1985 (50 FR 36220) is superseded to the extent inconsistent with this proclamation.

(6) The modifications to the TSUS made by this proclamation shall be effective with respect to articles both: (a) imported on or after January 1, 1976, and (b) entered, or withdrawn from warehouse for consumption, on or after July 1, 1986.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of March, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan



## ANNEX I

ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT  
UNDER THE GSP WHEN IMPORTED FROM ANY  
BENEFICIARY DEVELOPING COUNTRY

107.48	220.25	646.90	687.70
137.40	222.10	651.33	792.50
146.44	602.10	652.60	792.60
176.15	603.40	653.85	

## ANNEX II

ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT UNDER  
THE GSP WHEN IMPORTED FROM BENEFICIARY DEVELOPING  
COUNTRIES OTHER THAN THOSE SPECIFIED IN GENERAL  
HEADNOTE 3(e)(v)(D) OF THE TSUS

121.62	420.82	653.90	724.45
136.00	437.64	654.50	727.40
136.80	465.05	657.80	770.07
386.13	606.28	686.60	772.15
412.22	650.87	688.30	
419.10	653.45	710.72	

## ANNEX III

## MODIFICATIONS TO GENERAL HEADNOTE 3(e)(v)(D) OF THE TSUS

General headnote 3(e)(v)(D) to the TSUS is modified--

(a) by deleting the following TSUS item numbers and the countries set opposite these numbers:

107.48--Brazil  
137.40--Mexico  
146.44--Philippines  
176.15--Brazil  
222.10--Hong Kong  
602.10--Peru  
603.40--Chile  
646.90--Mexico  
651.33--Hong Kong  
652.60--Taiwan  
653.85--Taiwan  
687.70--Malaysia  
792.50--Philippines  
792.60--Hong Kong



## ANNEX III (con.)

(b) by adding in numerical sequence, the following TSUS item numbers and countries set opposite them:

121.62--India  
136.00--Dominican Republic  
136.80--Mexico  
386.13--Taiwan  
412.22--Bahamas  
419.10--Chile  
420.82--Israel  
437.64--Brazil  
465.05--Philippines  
606.28--Mexico  
650.87--Hong Kong  
653.45--Taiwan  
653.90--Hong Kong  
654.50--Taiwan  
657.80--Taiwan  
686.60--Mexico  
688.30--Costa Rica  
710.72--Taiwan  
724.45--Republic of Korea  
727.40--Taiwan  
770.07--Mexico  
772.15--Taiwan

(c) by deleting the following countries opposite the following TSUS items:

155.20--Argentina  
650.89--Taiwan  
676.56--Malaysia  
685.90--Hong Kong

(d) by adding, in alphabetical order, the following countries opposite the following TSUS items:

407.19--Romania  
684.58--Republic of Korea  
685.32--Singapore  
688.17--Taiwan



## ANNEX IV

## ARTICLES NOT PRODUCED IN THE UNITED STATES ON JANUARY 3, 1985

107.48	252.73	410.92	624.12
111.15	304.10	411.00	624.18
117.65	304.12	411.04	624.22
117.67	304.14	411.20	624.32
137.75	304.22	412.88	624.40
137.79	304.48	419.00	624.52
138.35	305.40	422.74	644.17
138.41	305.50	426.24	652.06
141.85	306.11	426.42	652.55
141.87	306.42	426.52	657.70
145.02	306.53	426.72	685.10
145.54	306.60	426.76	685.18
146.44	306.61	426.77	685.20
147.29	308.45	427.42	685.25
148.19	315.75	427.45	687.42
148.52	315.85	427.54	700.54
149.15	315.95	437.16	702.15
152.43	316.50	437.18	702.35
152.60	335.50	437.36	702.37
154.10	335.70	437.44	702.40
161.06	335.85	437.65	704.34
161.45	347.20	452.24	705.30
168.36	347.28	452.48	713.05
168.37	347.30	455.06	713.07
168.39	347.35	455.38	715.20
168.41	360.04	460.30	720.80
168.42	360.45	460.60	720.92
168.54	360.47	461.15	721.10
168.57	360.77	470.18	725.05
168.59	360.79	513.51	725.20
168.61	360.82	513.94	727.13
169.32	361.23	514.34	728.05
169.42	361.26	514.54	728.10
170.63	361.43	515.31	730.23
170.67	363.02	515.34	730.25
175.36	364.09	515.61	730.27
176.01	364.14	515.64	730.37
176.14	364.18	516.21	730.39
176.49	364.21	517.21	730.41
176.50	364.25	517.24	730.51
177.40	364.35	520.51	730.53
186.10	365.05	520.54	730.55
186.30	365.14	520.61	730.57
186.50	365.15	520.71	732.35
188.30	365.58	522.71	737.26
192.45	367.28	523.37	737.28
192.85	367.31	532.41	756.21
193.10	385.95	533.15	790.07
206.45	387.25	540.51	790.15
222.10	387.33	602.28	790.25
222.40	405.02	603.49	790.62
222.42	408.00	603.54	792.24
222.62	408.08	605.48	
245.45	408.31	606.15	
251.25	410.68	606.75	
252.70	410.76	606.77	

[FR Doc. 86-7570

Filed 4-2-86; 11:02 am]

Billing code 3195-01-C







# Rules and Regulations

Federal Register

Vol. 51, No. 65

Friday, April 4, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1006

#### Milk in the Upper Florida Marketing Area; Order Terminating Certain Provisions of the Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Termination of rule.

**SUMMARY:** This action terminates certain classification provisions of the Upper Florida order. The action removes the provision "(including milkshake mix)" from the fluid milk product definition. Such action will result in a Class II classification for skim milk and butterfat used in milkshake. Currently, a Class I classification applies to skim milk and butterfat in such use. Upper Florida Milk Producers Association requested the proposed action, and comments in support of such action were received from two other interested parties. The termination order is needed in order for a processing plant regulated under the Upper Florida order to be competitive with certain other Federal order plants in the processing and distribution of a milkshake mix product (Shake Ups). The milkshake product contains in excess of 20 percent total solids and would be classified as a Class II product under the Georgia order and a large number of other Federal order markets. Under these circumstances, the termination action which provides for a Class II classification of the milkshake mix product under the Florida order is appropriate.

**EFFECTIVE DATE:** April 4, 1986.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2089.

**SUPPLEMENTARY INFORMATION:** The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers by reducing the payments that are required to be made for milk used in the processing of milkshake mix.

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Upper Florida marketing area.

Notice of proposed rulemaking was published in the Federal Register on March 5, 1986 (51 FR 7579) concerning a proposed termination (or suspension for 12 months) of a provision of the order. Interested parties were afforded opportunity to file written data, views, and arguments thereon.

#### Statement of Consideration

This termination action will classify as Class II milk all skim milk and butterfat used in the processing of milkshake mix. The order now classifies as Class I milk the skim milk and butterfat in such use.

The termination of the provision "(including milkshake mix)" from the fluid milk product definition of the Upper Florida milk marketing order was requested by Upper Florida Milk Producers Association. The cooperative supplies a large portion of the market's fluid milk needs. It also supplies milk to the Flav-O-Rich plant at Jacksonville, Florida, that is processing a milkshake mix product (Shake Ups) containing in excess of 20 percent total solids.

Interested parties were invited to submit comments regarding the proposed termination (or 12-month suspension). Two interested parties responded. H. P. Hood, Inc., the company for which the product "Shake Ups" is packaged supported the proposed termination. Dairymen, Inc., the operator of the plant packaging the product, also supported the proposed termination.

A Class II classification is needed for such product in order for the plant to compete with handlers regulated under the Georgia milk order and most other Federal milk orders. Skim milk and

butterfat in milkshake mix containing in excess of 20 percent total solids are classified as Class II milk in most Federal milk orders while the current provisions of the Upper Florida milk order classify the skim milk and butterfat in such product as Class I milk. Under these circumstances, the termination action which provides for a Class II classification of the milkshake mix product under the Upper Florida order is appropriate.

It is hereby found and determined that thirty day's notice of the effective date hereof are impractical, unnecessary and contrary to the public interest in that:

(a) The termination is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that the action will tend to assure that handlers who operate plants fully regulated under the Upper Florida order will be faced with a competitive price for milk used to make milkshake mix.

(b) This termination does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this termination. Two responses in support of the proposed action and no comments in opposition were received.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

#### List of Subjects in 7 CFR Part 1006

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provision in § 1006.15 of the Upper Florida order is hereby terminated.

#### PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. The authority citation for 7 CFR Part 1006 continues to read as follows:

**Authority:** Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

#### § 1006.15 [Amended]

2. In § 1006.15, the provisions "(including milkshake mix)" is terminated.

**Effective Date:** Upon publication in the Federal Register.



Signed at Washington, DC, on: April 1, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86-7505 Filed 4-3-86; 8:45 am]

BILLING CODE 3410-02-M

## 7 CFR Part 1094

### Milk in the New Orleans-Mississippi Marketing Area; Order Suspending Certain Provision

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Suspension of rule.

**SUMMARY:** This action suspends for the month of March 1986 the percentage of producer milk of members of a cooperative that must be delivered to a pool distributing plant in order for a cooperative association to qualify its plant as a pool plant under the New Orleans-Mississippi order for that month. The suspension was requested by a cooperative association with member-producers who supply milk for the market. The action is needed to ensure that dairy farmers who have historically supplied the fluid needs of the New Orleans-Mississippi market will share in the market's Class I milk sales during March 1986.

**EFFECTIVE DATE:** April 4, 1986.

**FOR FURTHER INFORMATION CONTACT:**

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-2089.

**SUPPLEMENTARY INFORMATION:** The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who have been historically associated with the market will continue to have their milk priced under the order for March 1986 and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the New Orleans-Mississippi marketing area.

After consideration of all relevant material it is hereby found and determined that for the month of March 1986 the following provision of the order

does not tend to effectuate the declared policy of the Act:

In § 1094.7(c), the provision "45 percent or more of the".

#### Statement of Consideration

This action removes for March 1986 the requirement that 45 percent of the producer milk of members of a cooperative association must be physically received at pool distributing plants during the month in order for a balancing plant operated by a cooperative association to qualify as a pool plant under the New Orleans-Mississippi milk order. The suspension was requested by Gulf Dairy Association, Inc., a cooperative association, for the months of March through June 1986. Proponent cooperative represents a large number of the market's producers.

This action is needed due primarily to a sudden reduction in Class I sales by a distributing plant that is supplied by proponent cooperative. The plant bottles a major portion of its bulk milk receipts under the same label as milk bottled by another plant in a nearby market. Some milk in such nearby market was contaminated with the pesticide heptachlor. As a consequence, consumers are reluctant to buy milk that is packaged under such label regardless of where such milk is bottled. Such action by consumers has lessened the amount of milk bottled by the plant that the cooperative supplies raw milk to and, thus, resulted in a reduction in Class I sales to the plant by the cooperative association.

The resulting loss in Class I sales has forced the cooperative to use in its balancing plant for the manufacture of cheese much of the milk supply previously associated with such Class I use. Such shift in the use of member milk of the cooperative will result in the cooperative not meeting the pooling requirement that 45 percent or more of the producer milk of members of the cooperative association must be physically received during the month at pool distributing plants. Consequently, unless the suspension action is granted, producers who have historically supplied the fluid milk needs of the market would not have their milk priced and pooled under the order.

Since the suspension request was received on March 20, any action for March must be taken immediately with no opportunity to invite interested parties to comment on the request. In this instance, the action is supported by a significant number of the market's

producers. Accordingly, we believe that suspension without industry comments is warranted for the month of March.

With regard to cooperative's request for suspension action for the additional months of April through June, there is sufficient time to seek industry comments. Accordingly, we plan to issue a subsequent document inviting comments on a proposed suspension for such additional months.

It is hereby found and determined that notice of proposed rulemaking, public procedure thereon, and thirty day's notice of the effective date hereof are impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk; and

(b) This suspension does not require of persons effected substantial or extensive preparation prior to the effective date.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

#### List of Subjects in 7 CFR Part 1094

Milk marketing orders, Milk, Dairy products.

*It is therefore ordered,* That the aforesaid provision in § 1094.7(c) of the New Orleans-Mississippi order is hereby suspended for March 1986.

### PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

1. The authority citation for 7 CFR Part 1094 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

#### § 1094.7 [Amended]

2. In § 1094.7(c), the provision "45 percent or more of the" is suspended.

Effective Date: April 4, 1986.

Signed at Washington, DC on: March 28, 1986.

Alan T. Tracy,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86-7506 Filed 4-3-86; 8:45 am]

BILLING CODE 3410-02-M



## 7 CFR Part 1230

**Pork Promotion, Research, and Consumer Information; Procedures for Nominations and Elections of Pork Producers and Nominations of Importers for Appointment to the Initial National Pork Producers Delegate Body****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

**SUMMARY:** This final rule establishes procedures for selecting nominees for appointment to the initial National Pork Producers Delegate Body as provided for in the Pork Promotion, Research, and Consumer Information Act (Title XVI, Subtitle B, of the Food Security Act of 1985, approved December 23, 1985). The Delegate body would nominate persons for appointment to the National Pork Board, recommend the rate of assessment under the order, and determine the amount of assessments collected in a State that each State association would receive.

**DATE:** Effective April 4, 1986.  
[Nominations and Biographical data forms must be received by May 19, 1986.]

**ADDRESS:** Nominations and Biographical data forms may be requested from Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch; Livestock and Seed Division; Agricultural Marketing Service; USDA; 14th and Independence Avenue, SW., Room 2610-S; Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Ralph L. Tapp, Chief: (202/447-2650).

**SUPPLEMENTARY INFORMATION:****Regulatory Flexibility Analysis**

This final rule has been reviewed under USDA procedures and Executive Order No. 12291 and has been designated as a "non-major" rule.

The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small business entities. This rule pertains only to the procedures as set forth in the Pork Promotion, Research, and Consumer Information Act, hereinafter referred to as the Act, for (1) establishing the eligibility of associations, organizations, and individuals to make nominations, (2) submitting nominations of candidates for election, and (3) conducting statewide elections.

**Background**

The Act authorizes the establishment of a national pork promotion, research, and consumer information order. The order would provide for the establishment of a Delegate Body which would nominate members to a 15-member National Pork Board.

The initial Delegate Body would be comprised of 165 pork producers and importers appointed by the Secretary not later than 60 days after the effective date of an order from nominations submitted by the industry. These regulations for selecting nominees for appointment to the Delegate Body are being made effective now so that, if an order is adopted, it will be possible to appoint the Delegate Body within the time limits set by the Act.

The number of producer members from each State would be determined pursuant to Section 1617 of the Act, based upon statistics published in the "Livestock and Meat Statistics" (statistical bulletin No. 715) and the "Meat, Animal, Production, Disposition, and Income (1984 Summary)." (Copies of the former document may be obtained by calling the Government Printing Office at 202/783-3238. Copies of the latter document may be obtained by calling the Crop Reporting Board Publications office at 202/447-4021.)

The number of importer members would be determined based upon statistics published by the Foreign Agricultural Service in "Dairy, Livestock, and Poultry Trade and Prospects." (Copies can be obtained by requesting in writing subscription No. 10005 from: USDA, Foreign Agricultural Service, Information Division, Room 4644-S, Washington, DC 20250.)

To ensure that nominees represent the interests of pork producers and importers, State associations and importer organizations as well as other eligible organizations and individuals will be able to nominate members for appointment to the Delegate Body. Under the Act, State association means the single organization of pork producers in a State that is organized under the laws of the State in which such association operates and is recognized by the chief executive officer of such State as representing the pork producers of such State, or if such organization did not exist on January 1, 1986, an organization that represents not fewer than 50 pork producers who market annually, in the aggregate, not less than 10 percent of the volume (measured in pounds) of porcine animals marketed in such State. Qualified individuals can be nominated as

candidates for the elections by filing a written petition with the Secretary.

A State association wishing to make nominations is required to furnish the Secretary with a written statement signed by an official of that association attesting that it meets the State association requirements under the Act as well as any other information deemed relevant by the Secretary. Individual pork producers who are residents of a State can be nominated as candidates for the Delegate Body by a written petition containing the signatures of at least 100 pork producers or 5 percent of the pork producers in such State, whichever is less.

The number of signatures required will be determined from statistics published in the December 1985 issue of "Hogs and Pigs" to establish compliance with the 5 percent requirement. (Copies may be requested from Crop Reporting Board Publications, telephone 202/447-4021.) Importer organizations wishing to make nominations will be required to submit written evidence demonstrating that they are established, stable organizations representing a significant number of importers. The required written statements or information necessary for an eligibility determination may be submitted with the official nomination forms or in connection with requests for the official nomination forms. Nomination forms may be obtained by contacting the Marketing Programs and Procurement Branch; Livestock and Seed Division; Agricultural Marketing Service; U.S. Department of Agriculture; 14th and Independence Avenue, SW., Room 2610-S; Washington, D.C. 20250. (Telephone: 202/447-2650).

Statewide elections will be held to determine the nominees who will be considered by the Secretary for appointment as producer members of the Delegate Body. Ballots containing the names of candidates nominated from each State will be prepared and distributed.

Information obtained from individuals, associations, and organizations will be kept confidential, except that the Secretary can release general statements based upon data obtained from a number of individuals, associations, or organizations which do not identify the information obtained from any specific individual, association, or organization.

**Paperwork Reduction**

The Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) seeks to minimize the paperwork burden



imposed by the Federal Government while maximizing the utility of the information requested. In March 1983, the Office of Management and Budget (OMB) implemented the Act by adopting procedures contained in Part 1320 of 5 CFR Chapter III. According to these procedures, the information collection request contained in this subpart has been approved by OMB and has been assigned OMB Control No. 0581-0151.

#### Comments:

On February 21, 1986, the Agricultural Marketing Service (AMS) published in the *Federal Register* (51 FR 6255) a proposed rule which would establish procedures for selecting nominees for appointment to the initial National Pork Producers Delegate Body as provided for in the Pork Promotion, Research, and Consumer Information Act (Title XVI, Subtitle B, of the Food Security Act of 1985, approved December 23, 1985). The proposed rule was published with a request for comments as a means of providing full public participation in the rulemaking process. Comments were requested by March 10, 1986. During the comment period, the Agency received one comment in response to the proposed rule. That comment was from a national pork producer association representing 38 State associations with a reported membership of over 100,000 pork producers.

#### Discussion of Comments

The commentor expressed overall support of the proposed rule and stated that "it is consistent with producer desires and expectations as well as what is provided for in the Pork Promotion, Research, and Consumer Information Act".

The commentor questioned the provisions of section 1230.501 and 1230.508(a) of the proposed rule relating to nominations and elections. It was the commentor's position that in the case where an exact number of nominations are received for delegates to represent a State, there should be no need for an election, since the Act does not provide any other means for delegate nominations to be added to the ballot. The commentor was concerned about the cost of elections.

The Department shares the commentor's concern about the cost of conducting the elections and will make every effort to minimize election costs. However, the Act directs the Secretary to call for an election within each State of persons for appointment as producer members of the initial Delegate Body.

The Act does not limit the number of persons which the Secretary may require to be nominated for appointment

to each allotted position on the Delegate Body. However, for appointment to the initial Delegate Body, only one nominee, selected through the election process, will be required for each allotted producer position. Two nominees will be required for each allotted importer position, because those nominees will not be selected through an election process.

The commentor also recommended that the Secretary seek names from the pork industry of persons to be appointed as delegates from those States which have pork producer associations but which do not submit nominations, or from States which do not have State pork producer associations. In such cases, the Act permits the Secretary to determine the manner in which nominations of pork producers shall be submitted. It is the Secretary's intent to ensure that pork producer nominees in such States do in fact represent the pork producers of those States, and it is presumed that pork producers would be a primary source for obtaining nominations. However, identifying alternative sources provides the Secretary with sufficient flexibility to obtain nominees who would best represent pork producer interests of a given State. The order in which the alternative sources are listed in § 1230.507(b) is not indicative of the order in which they would be considered.

The commentor also suggested that the place of voting referred to in § 1230.508(d) be the County Agricultural Extension Service office. It was the commentor's opinion that pork producers identify with these offices and that the staff within the Extension Office is familiar with bona fide producers which will help insure the integrity of the election. The location of the voting place has not been finalized and the commentor's suggestion will be considered. The Secretary will issue a public announcement prior to the election date identifying the voting location.

#### List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertisings, Agricultural research, Marketing agreements, Meat and meat products, Pork and pork products.

Chapter XI of Title 7 of the Code of Federal Regulations is hereby amended by adding a new Part 1230 to read as follows:

### PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

#### Subpart A—Procedures for Nominations and Elections of Pork Producers and Nominations of Importers for Appointment to the Initial National Pork Producers Delegate Body

##### Sec.

- 1230.501 General.
- 1230.502 Definitions.
- 1230.503 Administration.
- 1230.504 Eligibility to nominate candidates for election and appointment to the initial Delegate Body.
- 1230.505 Nominations of members for appointment to the Delegate Body.
- 1230.506 Initial Delegate Body membership.
- 1230.507 Nominations of producers as candidates for election.
- 1230.508 Election process.
- 1230.509 Acceptance of appointment.
- 1230.510 Verification of information.
- 1230.511 Confidential treatment of information.
- 1230.512 Paperwork Reduction Act assigned number.

Authority: 7 U.S.C. 4801-4819.

#### Subpart A—Procedures for Nominations and Elections of Pork Producers and Nominations of Importers for Appointment to the Initial National Pork Producers Delegate Body

##### § 1230.501 General

Associations, organizations, or individuals must be recognized by the Secretary as being eligible to participate in nominating pork producers as candidates for statewide elections of nominees for appointment to the initial Delegate Body. The number of nominees required for each allotted position will be determined by the Secretary. Additionally, the Secretary shall provide that organizations or associations which represent importers of porcine animals, pork, and pork products may nominate such importers for appointment as members of the Delegate Body. The making and receiving of nominations and the election process shall be conducted in accordance with this subpart.

##### § 123.502 Definitions.

As used in this subpart:

"Act" means the Pork Promotion, Research, and Consumer Information Act of 1985, Title XVI, Subtitle B, of Pub. L. 99-198, approved December 23, 1985.

"Delegate Body" means the National Pork Producers Delegate Body established by the Secretary.

"Department" means the United States Department of Agriculture.



"Importer" means a person who imports porcine animals, porks, or pork products into the United States.

"Livestock and Seed Division" means the Livestock and Seed Division of the Department's Agricultural Marketing Service.

"Person" means an individual, group of individuals, partnership, corporation, association, organization, cooperative, or other entity.

"Porcine animal" means a swine raised for slaughter, feeder pigs, or seed stock.

"Pork" means the flesh of a porcine animal.

"Pork product" means a product produced or processed in whole or in part from pork.

"Producer" means a person who produces porcine animals in the United States for sale in commerce.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, to act in the Secretary's stead.

"State" means each of the 50 States.

"State association" means the single organization of pork producers in a State that is (1) organized under the laws of the State in which such association operates; and (2) recognized by the chief executive officer of such State as representing the pork producers of such State; or if such organization did not exist on January 1, 1986, an organization that represents not fewer than 50 pork producers who market annually, in the aggregate, not less than 10 percent of the volume (measured in pounds) of porcine animals marketed in such State.

#### § 1230.503 Administration.

The Livestock and Seed Division shall have the responsibility for administering the provisions of this subpart.

#### § 1230.504 Eligibility to nominate candidates for election and appointment to the Initial Delegate Body.

(a) *States with existing State associations.* Existing State associations are eligible to submit names of candidates for election as producer nominees for appointment by the Secretary to the Delegate Body. However, such State associations must provide the Department with written verification that they comply with the definition of a State association in § 1230.502.

(b) *States without existing State associations.* In the absence of an existing State association referred to in paragraph (a) of this Section, an organization which represents not fewer

than 50 pork producers who market annually in the aggregate not less than 10 percent of the volume (measured in pounds) of porcine animals marketed in such State is eligible to submit candidates for election and appointment to the Delegate Body. Such organization must provide the Department with a written statement containing the number of pork producers in the State that it represents and the aggregate volume in pounds of porcine animals marketed annually by those producers in that State.

(c) *Qualified individuals.* Individual pork producers may be nominated as candidates from the State in which they reside for election and appointment to the Delegate Body. A nomination must be supported by a written petition signed by 100 producers or 5 percent of the pork producers in such State, whichever is less. Written petitions must be submitted to the Chief, Marketing Programs and Procurement Branch; Livestock and Seed Division; Agricultural Marketing Service, USDA; 14th and Independence Avenue, SW., Room 2610-S; Washington, DC 20250.

(d) *Associations and organizations representing importers.* The determination by the Secretary as to the eligibility of importer associations and organizations to nominate members to the Delegate Body shall be based on a factual written report submitted to the Department by importer organizations or associations. The report shall contain:

(1) The number of importer members by type of product (i.e., porcine animals, pork, pork products).

(2) Annual imported volume in pounds of pork and pork products and/or the number of head of porcine animals.

(3) Evidence as to the stability and permanency of the organization (i.e., years in existence).

(4) The names of the countries of origin of such imported porcine animals, pork, and pork products.

(5) Such other information as the Secretary may require.

(e) The information required in paragraphs (a), (b), (d), or the petition required in paragraph (c) of this section may be submitted to the Secretary either with completed nomination forms or at the time a request is made for official nomination forms. The Secretary may also consider additional relevant information. The Secretary's determination of eligibility to nominate shall be final.

(f) *Official Nomination Forms.* Official nomination forms, "Nomination of Pork Producers for Election and Appointment to the National Pork Producers Delegate Body," must be used to submit the names of producers nominated as

candidates for statewide elections. A biographical data sheet for each nominee listed on the "Nomination of Pork Producers for Election and Appointment to the National Pork Producers Delegate Body" must be attached to that form. Official nomination forms, biographical data sheets, and additional information on nominations can be obtained by calling or writing the Chief, Marketing Programs and Procurement Branch; Livestock and Seed Division; Agricultural Marketing Service, U.S. Department of Agriculture; 14th and Independence Avenue, SW., Room 2610-S; Washington, DC 20250. (Telephone: 202/447-2650).

#### § 1230.505 Nomination of members for appointment to the Delegate Body.

All nominations to the initial Delegate Body shall be made in the following manner:

(a) *Producer members.* The producer nominees from each State for appointment by the Secretary to the Delegate Body shall be determined by statewide elections as described in § 1230.508.

(b) *Importer members.* (1) Eligible importer associations or organizations shall submit to the Department the names of nominees for each of the allotted importer positions on the Delegate Body. Each nomination must be accompanied by biographical data which shall include the following information: (i) name, date and place of birth, U.S. citizenship, Social Security number, residence address and telephone number; (ii) business address, telephone number, and brief description of business including volume and types of products imported, and (iii) a list of importer organizations of which the nominee is a member and current positions in such organization held by the nominee.

(2) Eligible importer associations or organizations will be given 45 days in which to submit nominations to the Marketing Programs and Procurement Branch; Livestock and Seed Division; Agricultural Marketing Service; 14th and Independence Avenue, SW., Room 2610-S; Washington, DC 20250.

(3) If there are two or more eligible importer associations or organizations, they may jointly nominate importers for each allotted position on the Delegate Body.

#### § 1230.506 Initial delegate body membership.

(a) *Producers.* The number of producer members appointed to the initial Delegate Body shall be



determined pursuant to the following criteria.

(1) Shares shall be assigned to each State for the 1986 calendar year on the basis of one share for each \$400,000 of farm market value of porcine animals marketed from such State as determined by the Secretary based on the annual average of farm market value for the calendar year 1982 through 1984 rounded to the nearest \$400,000.

(2) If the number of shares assigned to a State is:

(i) Less than 301, the State shall receive two producer members;

(ii) More than 300 but less than 601, the State shall receive three producer members;

(iii) More than 600 but less than 1,001, the State shall receive four producer members; and

(iv) More than 1,000, the State shall receive four producer members, plus one additional member for each 300 additional shares in excess of 1,000 shares, rounded to the nearest 300.

(3) Based on the criteria contained in paragraph (a) (1) and (2) of this section, the number of members on the Delegate Body allotted to each State shall be:

Alabama 2; Alaska 2; Arizona 2; Arkansas 2; California 2; Colorado 2; Connecticut 2; Delaware 2; Florida 2; Georgia 3; Hawaii 2; Idaho 2; Illinois 10; Indiana 7; Iowa 23; Kansas 4; Kentucky 3; Louisiana 2; Maine 2; Maryland 2; Massachusetts 2; Michigan 3; Minnesota 7; Mississippi 2; Missouri 6; Montana 2; Nebraska 6; Nevada 2; New Hampshire 2; New Jersey 2; New Mexico 2; New York 2; North Carolina 4; North Dakota 2; Ohio 4; Oklahoma 2; Oregon 2; Pennsylvania 2; Rhode Island 2; South Carolina 2; South Dakota 4; Tennessee 3; Texas 2; Utah 2; Vermont 2; Virginia 2; Washington 2; West Virginia 2; Wisconsin 4; and Wyoming 2.

(b) *Importers.* The number of importer members to be appointed to the initial Delegate Body shall be determined pursuant to the following criteria.

(1) Shares shall be assigned on the basis of one share for each \$575,000 of market value of marketed porcine animals, pork, or pork products based on the annual average of imports for the calendar years 1982 through 1984 rounded to the nearest \$575,000.

(2) The number of importer members appointed to the Delegate Body shall equal a total of:

(i) Three members for the first 1,000 such shares; and

(ii) One additional member for each 300 additional shares in excess of 1,000 shares rounded to the nearest 300.

(3) Based on the criteria contained in paragraph (b) (1) and (2) of this Section,

importers shall be entitled to four members on the Delegate Body.

#### § 1230.507 Nominations of producers as candidates for election.

(a) The candidates for election in each State shall be nominated by eligible State associations, organizations, and qualified individuals as described in § 1230.504. Nominees must be pork producers and reside in the State they will represent as candidates in the election. Official nomination forms, listing the names of the nominees and a completed and signed Biographical Data Sheet for each nominee shall be submitted to the Chief, Marketing Programs and Procurement Branch; Livestock and Seed Division; Agricultural Marketing Service, U.S. Department of Agriculture; 14th and Independence Avenue, SW., Room 2610-S; Washington, DC 20250. A 45-day time period will be provided for submitting nominations for candidates in the elections.

(b) In the case of a State that does not have an eligible State association, or if an eligible State association, other eligible organization, or an eligible qualified individual does not submit nominations, the Secretary shall obtain nominations in such States from one or more of the following: (1) General farm organizations, (2) State Departments of Agriculture, and (3) individuals considered by the Secretary to be knowledgeable about the pork industry in such States.

#### § 1230.508 Election process.

(a) *General.* To appoint the initial Delegate Body, the Secretary shall call for statewide elections of producers nominated as candidates for appointment. To facilitate the timely implementation of the pork promotion, research, and consumer information program, the elections shall be conducted prior to the effective date of the final order. The decision to conduct an election in each State shall be based on the number of candidates nominated in each State.

(b) *Preparation and distribution of ballots.* A master ballot shall be prepared for each State containing the names of eligible candidates nominated by State associations, organizations, or interested individuals under § 1230.507. A master ballot will list the names of nominees from each State and the cities in which the nominees reside. The master ballot for each State will be reproduced and distributed to designated voting places within the State. Each ballot will contain instructions for its completion.

(c) *Notice.* The Secretary shall give public notice of the statewide elections by publication in one or more newspapers of general circulation in each State and in pork production and agricultural trade publications at least 1 week prior to the election and in any other reasonable manner determined by the Secretary. The notice shall set forth the dates, times, and places for voting and such other information as the Secretary considers necessary.

(d) *Time and place of voting.* Statewide elections will be held in a timely manner following the distribution of the ballots to the designated voting places in each State. Persons eligible to vote shall register to vote and complete their ballots simultaneously at the designated voting places in each State. Voting shall take place over a 1-week period, Monday through Friday, during the normal business hours of the designated voting places.

(e) *Voter eligibility requirements.* Any person who produces porcine animals in the United States for sale in commerce shall be eligible to vote in the election in the State in which such person resides.

(f) *Voting procedures.*—(1) *Voting in person.* Each eligible voter shall register at the time of voting by signing a voter registration list which will signify that such voter is a pork producer as defined in § 1230.502 and a resident of that State. Upon registration, each eligible voter will receive a ballot containing the names and the resident cities of the pork producer candidates. Voting shall be by secret ballot under the supervision of the Secretary's designated representative. All ballots shall be placed in sealed ballot boxes or other suitable receptacles.

(2) *Absentee ballot.* Eligible voters, unable to vote in person, may obtain a ballot and a voter registration form by mail. To ensure confidentiality of the vote, the voter shall seal the completed ballot in a separate envelope and include it in another envelope containing the signed registration form. The ballot shall remain sealed until the counting of all such ballots. Absentee ballots may be obtained from and must be returned to the address designated by the Secretary, which will be provided in public announcements of the statewide elections.

(g) *Procedures for determining the elected candidates.* After the voting period ends, the ballots cast in each designated voting place including any absentee ballots shall be counted in a manner and by a person or persons designated by the Secretary. The results of the election in each State shall be forwarded to the Department. Those



candidates in each State receiving the highest number of votes shall be submitted to the Secretary for consideration as appointees to the Delegate Body.

**§ 1230.509 Acceptance of appointment.**

Producers and importers nominated to the Delegate Body must signify in writing their intent to serve if appointed.

**§ 1230.510 Verification of information.**

The Secretary may require verification of any information submitted and may procure such other information as may be required to determine whether an association, organization, or individual is eligible to nominate or be nominated for appointment to the initial Delegated Body under the Act.

**§ 1230.511 Confidential treatment of information.**

All documents submitted by associations, organizations, and individuals and information otherwise obtained by the Department pursuant to this subpart shall be kept confidential by all employees of the Department. Only such information so furnished or acquired as the Secretary deems relevant shall be disclosed and then only in the issuance of general statements based upon the reports of a number of persons subject to the order or statistical data collected therefrom, when such a statement or data does not identify the information furnished by any one person.

**§ 1230.512 Paperwork Reduction Act assigned number.**

The OMB has approved the information collection request contained in this subpart under the provisions of 44 U.S.C. Chapter 35, and OMB Control Number 0581-0151 has been assigned.

Signed at Washington, DC: April 1, 1986.  
William T. Manley,

*Deputy Administrator, Marketing Programs.*

[FR Doc. 86-7524 Filed 4-3-86; 8:45 am]

BILLING CODE 3410-02-M

**7 CFR Part 1260**

**Beef Promotion and Research; Certification and Nomination Procedures for the Cattlemen's Beef Promotion and Research Board**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes nomination procedures and also procedures for determining the eligibility of State and importer organizations,

associations, and others to make nominations for appointment to a Cattlemen's Beef Promotion and Research Board, as provided for in the Beef Promotion and Research Act of 1985, which amended the Beef Research and Information Act (7 U.S.C. 2901-2918). The Board would administer an industry-funded promotion and research order authorized by the Act.

**DATE:** Effective April 4, 1986.

**ADDRESS:** Certification, nomination, and biographical data forms may be requested from Ralph L. Tapp, Chief; Marketing Programs and Procurement Branch; Livestock and Seed Division; Agricultural Marketing Service, USDA; 14th and Independence Avenue SW., Room 2610-S; Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Ralph L. Tapp (202/447-2650).

**SUPPLEMENTARY INFORMATION:**

**Regulatory Impact Analysis**

This final rule was reviewed under USDA procedures and Executive Order No. 12291 and has been designated as a "nonmajor" rule.

The Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities. The rule pertains only to (1) the procedures for establishing the eligibility of organizations, associations, and others to nominate cattle producers and importers for appointment by the Secretary to the Cattlemen's Beef Promotion and Research Board and (2) the procedures for submitting such nominations.

**Background**

The Beef Promotion and Research Act of 1985, approved December 23, 1985, authorizes the establishment of a national beef promotion and research order. The order would provide for the establishment of a Cattlemen's Beef Promotion and Research Board which would elect 10 members to a 20-member beef promotion operating committee. The remaining 10 members would be elected by a federation that includes as members the qualified State beef councils.

The Cattlemen's Beef Promotion and Research Board would be comprised of cattle producers and importers nominated for appointment by the Secretary to the Board. The duties and responsibilities of the Board would be specified in the order.

The Act provides that the Secretary shall either certify or otherwise determine the eligibility of State or importer organizations, associations, or

others to nominate members to the Board to ensure that nominees represent the interests of cattle producers and importers. Certification procedures are set forth in this final rule. The certification of State producer organizations or associations representing cattle producers will be based on a factual report containing information required by the Act, including but not limited to (1) size and composition of active membership, (2) the proportional representation of cattle producers within the membership, (3) the evidence that the State organizations or associations are well established and permanent, and (4) the function and purpose of State organizations or associations as they relate to cattle producers and their economic welfare. State organizations or associations will submit completed application forms to the Department containing the above-specified information.

Importer organizations and those wishing to submit nominations from States where there are no certifiable organizations will submit such information as required by the Secretary pursuant to these rules.

The Secretary will have the authority to require verification of any information submitted to determine the eligibility to nominate persons for membership on the Board.

Information obtained by the Secretary will be kept confidential, except that the Secretary can release general statements based upon data obtained from a number of organizations. The Secretary will not disclose the information obtained from any specific organization or person.

**Paperwork Reduction**

The Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) seeks to minimize the paperwork burden imposed by the Federal Government while maximizing the utility of the information requested. In March 1983, the Office of Management and Budget (OMB) implemented the Act by adopting procedures contained in Part 1320 of 5 CFR Chapter III. In accordance with these procedures, the information collection request contained in this subpart has been approved by OMB and has been assigned OMB Control No. 0581-0152.

**Comments**

On February 21, 1986, the Agricultural Marketing Service published a proposed rule establishing certification and nomination procedures for a Cattlemen's Beef Promotion and Research Board.



This rule was published with requests for comments as a means of providing full public participation in the rule-making process. Comments on the proposal were requested by March 10, 1986. During the comment period, the Agency received five letters in response to the proposed rule. Letters were received from a national cattle producer association, a State cattle producer association, a general farm organization, an importer association, and an individual producer.

#### Discussion of Comments

One individual producer expressed general opposition to the establishment of a beef promotion and research program by the U.S. Department of Agriculture. The proposed rule, however, concerns only certification and nomination procedures for a Cattlemen's Beef Promotion and Research Board, should a beef promotion and research order be adopted. One State cattle producers association commented that the certification and nomination procedures were acceptable.

The general farm organization (1) expressed concern about the lack of minimum qualifications for nominees to the Cattlemen's Promotion and Research Board; (2) questioned the intent of the words "primary purpose" as they relate to promoting the economic welfare of cattle producers in determining the eligibility requirements for certification of organizations which will submit nominations for appointment by the Secretary to the Board; and (3) requested a definition of "substantial" as that term relates to describing the membership of organizations.

The Beef Promotion and Research Act states that the Cattlemen's Beef Promotion and Research Board will be made up of cattle producers and importers and defines "producer" as any person who owns or acquires ownership of cattle. The Act does not require or provide for any other qualifications to be eligible for nomination to the Board. However, the Act sets forth specific criteria which nominating organizations must meet to insure that such organizations are qualified representatives of cattle producers and therefore eligible to nominate such producers to the Board.

The word "primary" in the phrase, "A primary or overriding purpose of the association or organization is to promote the economic welfare of cattle producers," concerned the commenting organization because it believed that the term could unduly restrict the type of organizations which could be certified. The commentator pointed out that there are general farm organizations which in

fact do represent cattle producers in their States or units, but which cannot claim that their *only* primary purpose is to promote the economic welfare of cattle producers. The Department recognizes that there may be such organizations; however, the phrase is taken directly from the Act. If an organization can demonstrate that a primary or overriding purpose of the organization is to promote the economic welfare of cattle producers, that organization may be eligible for certification with respect to this specific criteria.

The same commentator requested a definition of the word "substantial," contained in another of the eligibility criteria—"The association or organization represents a substantial number of producers that produce a substantial number of cattle in the State." The Act does not define substantial; therefore, the Department will interpret and apply "substantial" in a manner which will ensure that applicant associations or organizations do in fact represent the interests of cattle producers. Because of the differences in the organizations or associations which may wish to be certified, all applicant organizations or associations will be evaluated on a case-by-case basis.

The national cattle producer association suggested that the definition of "Board" be clarified by adding the words "of the Act" after the words "section 5(1)." The Secretary adopts this suggestion for clarification.

This same commentator also expressed concern about the methods which the Secretary would employ to receive nominations for appointment to the Board if there is no eligible organization or association in a State which can be certified pursuant to the proposed rule. The method proposed in § 1260.580 was "... the Secretary may obtain nominations from one or more of the following: (1) Other related organizations, (2) State Departments of Agriculture, and (3) individuals determined by the Secretary to be knowledgeable about the beef industry in such State." The commentator was concerned that obtaining nominations from "other related organizations" might allow organizations which do not truly represent producers to make nominations. It is the Secretary's intent that "related" as used in § 1260.580, paragraph (e)(1), means organizations allied by nature in that they may meet one or more, but not all, of the certification criteria contained in § 1260.580. The use of "other related organizations" will allow the Secretary the latitude to obtain the names of

producer nominees from organizations that, in the opinion of the Secretary, could make such nominations consistent with the intent of the Act.

In a related comment, it was the commentator's opinion that the proposed language in § 1260.580, paragraph (e)(3), "individuals determined by the Secretary to be knowledgeable about the beef industry in such State," would allow "too large a universe" to submit nominations and would allow the Secretary to receive nominations from persons other than producers in that State. It was the commentator's contention that substituting the language "individual producers residing in such State" would be more consistent with the intent of the act regarding representation of cattle producers. It is the intent of the Secretary to contact individuals who are knowledgeable about the cattle industry in a State and who are residents of such State. To clarify this intent, the language in § 1260.580, paragraph (e)(3), has been modified to indicate that the knowledgeable individuals whom the Secretary may contact will be residents of the involved State. However, while it is the Secretary's expressed intent to contact individuals who are residents of the State and knowledgeable about the beef industry in such State, limiting such individuals to "producers" would not permit the Secretary to contact individuals who may not be actively engaged in cattle production but who are knowledgeable about and/or associated with the cattle or beef industry by virtue of their profession (e.g., State Extension Beef Cattle Specialists). The language as proposed does not exclude producers from being contacted and is presumed that they would be the primary source for nominations.

The importer association suggested that the definition of "beef products" may be too broad and, as stated, may include products such as canned vegetable soup containing only "minor" amounts of beef. While there may be a need to further clarify the definition in any promotion and research order, for the purposes of this final rule, the definitions as they are stated in the Beef Promotion and Research Act are sufficient. In regard to the definition of "importer," the commentator suggested using the definition of importer in the U.S. Customs' regulations (19 CFR 101.1). However, the Secretary believes that "importer" as defined in the Act is appropriate for use in implementing the provisions of this final rule on certification and nomination procedures and will provide for full participation of



importers and their representative organizations.

Additionally, this commentor suggested that importers be included in the definition of "unit." This suggestion is adopted in the final rule.

The importer association further suggested that proposed § 1260.600, determining allotted positions on the Board, appeared to go beyond the stated purposes of the proposed rule, i.e., (1) procedures for establishing eligibility and (2) procedures for submitting nominations. This suggestion is well taken. Accordingly, proposed § 1260.600 is deleted in this final rule.

The numbers of each section under this subpart have been assigned to facilitate the publication of this final rule.

#### List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Meat and meat products, Beef and beef products.

Chapter XI of Title 7 of the Code of Federal Regulations is amended by revising Part 1260 to read as follows:

#### PART 1260—BEEF PROMOTION AND RESEARCH

##### Subpart A—Beef Promotion and Research: Certification and Nomination Procedures for the Cattlemen's Beef Promotion and Research Board

Sec.	
1260.500	General.
1260.510	Definitions.
1260.520	Responsibility for administration of regulations.
1260.530	Certification of eligibility.
1260.540	Application for certification.
1260.550	Verification of information.
1260.560	Review of certification.
1260.570	Notification of certification and the listing of certified organizations.
1260.580	Nomination of producers for appointment to the initial Board.
1260.590	Nomination of importers for appointment to the initial Board.
1260.600	Reserved.
1260.610	Acceptance of appointment.
1260.620	Confidential treatment of information.
1260.630	Paperwork Reduction Act assigned number.
1260.640	Application for Certification Form.

Authority: 7 U.S.C. 2901-2918.

##### Subpart A—Beef Promotion and Research: Certification and Nomination Procedures for the Cattlemen's Beef Promotion and Research Board

#### § 1260.500 General.

State organizations or associations shall be certified by the Secretary as

provided for in the Beef Promotion and Research Act of 1985 to be eligible to make nominations of cattle producers to the Board. Additionally, where there is no eligible organization or association in a State, the Secretary may provide for nominations in the manner prescribed in this subpart. Organizations or associations determined by the Secretary to represent importers of cattle, beef, and beef products may submit nominations for membership on the Board in a manner prescribed by the Secretary in this subpart. The number of nominees required for each allotted position will be determined by the Secretary.

#### § 1260.510 Definitions.

As used in this subpart:

"Act" means the Beef Promotion and Research Act of 1985 (7 U.S.C. 2901-2918).

"Beef" means the flesh of cattle.

"Beef products" means edible products produced in whole or in part from beef, exclusive of milk and milk products produced therefrom.

"Board" means the Cattlemen's Beef Promotion and Research Board established under Section 5(1) of the Act.

"Cattle" means live, domesticated bovine animals regardless of age.

"Department" means the United States Department of Agriculture.

"Importer" means a person who imports cattle, beef, or beef products from outside the United States.

"Livestock and Seed Division" means the Livestock and Seed Division of the Department's Agricultural Marketing Service.

"Producer" means a person who owns or acquires ownership of cattle, except that a person shall not be considered to be a producer if the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

"State" means each of the 50 States.

"Unit" means a State or combination of States which has a total inventory of not less than 500,000 head of cattle; or importers.

#### § 1260.520 Responsibility for administration of regulations.

The Livestock and Seed Division shall have the responsibility for administering the provisions of this subpart.

#### § 1260.530 Certification of eligibility.

(a) *State organizations or associations: requirements for certification.*

(1) To be eligible for certification to nominate producer members to the Board, State organizations or associations must meet all of the following criteria:

(i) Total paid membership must be comprised of at least a majority of cattle producers or represent at least a majority of cattle producers in a State or unit.

(ii) Membership must represent a substantial number of producers who produce a substantial number of cattle in such State or unit.

(iii) There must be a history of stability and permanency.

(iv) There must be a primary or overriding purpose of promoting the economic welfare of cattle producers.

(2) Written evidence of compliance with the certification criteria shall be contained in a factual report submitted to the Secretary by all applicant State organizations or associations.

(3) The primary consideration in determining the eligibility of a State organization or association shall be based on the criteria set forth in this section. However, the Secretary may consider any additional information that the Secretary deems relevant and appropriate.

(4) The Secretary shall certify any State organization or association which he determines complies with the criteria in this section, and his eligibility determination shall be final.

(b) *Organizations or associations representing importers.* The determination by the Secretary as to the eligibility of importer organizations or associations to nominate members to the Board shall be based on applications containing the following information:

(1) The number and type of members represented (i.e., beef, or cattle importers, etc.).

(2) Annual import volume in pounds of beef and beef products and/or the number of head of cattle.

(3) The stability and permanency of the importer organization or association.

(4) The number of years in existence.

(5) The names of the countries of origin for cattle, beef, or beef products imported.

The Secretary may also consider additional information that the Secretary deems relevant and appropriate. The Secretary's determination as to eligibility shall be final.



**§ 1260.540 Application for certification.**

(a) *State organizations or associations.* Any State organization or association which meets the eligibility criteria specified in § 1260.530(a) for certification is entitled to apply to the Secretary for such certification of eligibility to nominate producers for appointment to the Board. To apply, such organization or association must submit a completed "Application for Certification of Organization or Association," Form LS-25, contained in § 1260.640. It may be reproduced or additional copies may be obtained from the Livestock and Seed Division; Agricultural Marketing Service, USDA; 14th and Independence Avenue, SW., Room 2610-S; Washington, DC 20250. (Telephone: 202/447-2650.)

(b) *Importer organizations or associations.* Any organization or association whose members import cattle, beef, or beef products into the United States may apply to the Secretary for determination of eligibility to nominate importers under the Act. Applications shall be in writing and shall contain the information required by § 1260.530. Interested organizations or associations may contact the Livestock and Seed Division; Agricultural Marketing Service, USDA; 14th and Independence Avenue, SW., Room 2610-S; Washington, DC 20250; (Telephone: 202/447-2650) for information concerning application procedures.

**§ 1260.550 Verification of information.**

The Secretary may require verification of the information to determine eligibility for certification to make nominations under the Act.

**§ 1250.560 Review of certification.**

The Secretary may terminate or suspend certification or eligibility of any organization or association if it ceases to comply with the certification or eligibility criteria set forth in this subpart. The Secretary may require any information deemed necessary to ascertain whether the organization or association may remain certified or eligible to make nominations.

**§ 1260.570 Notification of certification and the listing of certified organizations.**

Organizations and associations shall be notified in writing as to whether they are eligible to nominate producer members to the Board. A copy of the certification or eligibility determination shall be furnished to certified or eligible organizations and associations. Copies shall also be maintained on file in the Livestock and Seed Division office, where they will be available for inspection.

**§ 1260.580 Nomination of producers for appointment to the initial Board.**

Nominations to the initial Board shall be made in the following manner:

(a) When notifying a State organization or association that it has been certified, the Secretary shall concurrently advise the organization or association of the number of positions on the Board allotted to that organization's or association's respective State. The Secretary also shall request the names of the certified organization's or association's nominees for each allotted position.

(b) When more than one State organization or association in a State or unit is certified, the Secretary shall provide each such certified State organization or association with a list of all other certified State organizations or associations in the same State or unit.

(c) If there is more than one certified State organization or association within a State or unit, such State organization or associations may jointly nominate producers for each allotted position on the Board.

(d) Nominations shall be submitted by certified State organizations or associations pursuant to this section.

(e) If the Secretary determines that there is no eligible organization or association in a State which can be certified pursuant to paragraph (d), § 1260.530, the Secretary may obtain nominations from one or more of the following: (1) Other related organizations, (2) State Departments of Agriculture, and (3), individuals who are residents of such State and who are determined by the Secretary to be knowledgeable about the beef industry in such State.

**§ 1260.590 Nomination of importers for appointment to the initial Board.**

(a) The Secretary shall notify in writing applicant importer organizations or association of their eligibility to nominate importer members to the Board and advise them of the allotted number of importer positions on the Board. Eligible organizations or association may nominate members for each position allotted to importers.

(b) The Secretary shall provide importer organizations or associations with the names of all other eligible importer organizations.

(c) If there are two or more eligible importer organizations or associations, they may jointly nominate importers for each allotted position on the Board.

**§ 1260.600 [Reserved]****§ 1260.610 Acceptance of appointment.**

Producers and importers nominated to the Board must signify in writing their intent to serve if appointed.

**§ 1260.620 Confidential treatment of information.**

All documents and information submitted to or obtained by the Department shall be kept confidential by all employees of the Department, except that the Secretary may issue general statements based upon the information collected from a number of different sources. These general statements will not identify any information as having been furnished by any one source.

**§ 1260.630 Paperwork Reduction Act assigned number.**

The OMB has approved the information collection request contained in this subpart under the provisions of 44 U.S.C. Chapter 35, and OMB Control Number 0581-152 has been assigned.

**§ 1260.640 Application for Certification Form.**

The following official form, "Application for Certification of Association or Organization," must be completed and submitted to the Department by eligible State organizations or associations seeking certification by the Secretary. This form may be reproduced.

BILLING CODE 3410-02-M



Information is collected in order to determine eligibility of organizations or associations to nominate cattle producers to serve as members of the Board. Application is voluntary and information is held confidential (Beef Promotion and Research Act of 1985).

U.S. DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE

APPLICATION FOR CERTIFICATION OF ORGANIZATION OR ASSOCIATION

Form Approved  
OMB NO. 0581-0152  
Expires 12-31-88

Organizations or associations must apply for certification by the Secretary to be eligible to participate in the making of nominations of cattle producers to serve as members of the Cattlemen's Beef Promotion and Research Board as provided in the Beef Promotion and Research Act of 1985. Information submitted in response to all items must be complete. Please type or print clearly. Send original only to: *Marketing Programs and Procurement Branch*  
*Livestock and Seed Division, AMS*  
*U. S. Department of Agriculture, Room 2610-S*  
*Washington, DC 20250*

1. NAME AND ADDRESS OF ORGANIZATION (Street address or P.O. Box No., City, State, ZIP)		2. TYPE OF ORGANIZATION (Check one) <input type="checkbox"/> Cattle Assoc. <input type="checkbox"/> General Farm Organization <input type="checkbox"/> Other (Specify) .....	
TEL. (AC ..... ) .....			
3. STATE	4. TOTAL PAID MEMBERSHIP (Most RECENT FULL calendar year) IN 198__ NO. _____	5. NUMBER OF PAID MEMBERS ENGAGED IN CATTLE PRODUCTION (Most RECENT FULL calendar year) IN 198__ NO. _____	6. TOTAL ESTIMATED INVENTORY OF CATTLE OWNED BY PAID MEMBERS (Most RECENT FULL calendar year) AS OF JAN. 1, 198__ NO. _____
7. AS EVIDENCE OF THE STABILITY AND PERMANENCY OF THE ORGANIZATION, GIVE:			
A. No. of Years in Existence		B. No. of Paid Members during each of the last four calendar years:	
		198__	198__
No. →		198__	198__
C. Other Evidence (Explain)			

I hereby certify that: (1) a primary or overriding purpose of this organization or association is to promote the economic welfare of cattle producers, and (2) the information provided in response to the above items is true, complete, and correct to the best of my knowledge. The Secretary of Agriculture may examine our books, documents, papers, records, files, and facilities to verify any of the information submitted and may procure such other information as may be required to determine this organization's or association's eligibility for certification.

8. NAME AND TITLE OF PERSON COMPLETING THIS APPLICATION (Type or print)	9. DATE	10. SIGNATURE



Signed at Washington, DC: April 1, 1986.  
 William T. Manley,  
 Deputy Administrator, Marketing Programs.  
 [FR Doc. 86-7525 Filed 4-3-86; 8:45 am]  
 BILLING CODE 3410-02-M

## Farmers Home Administration

### 7 CFR Parts 1951 and 1965

#### Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received; Correction and Amendments

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Farmers Home Administration (FmHA) corrects typographical errors to a final rule published April 2, 1985, (50 FR 12989) and makes revisions to that final rule. The primary intent of the revisions is to clarify method of applying collection of lump-sum repayment in cases subject to/not subject to recapture of subsidy; make an exception to required liquidation in cases where the borrower provided false information to obtain unauthorized interest credit; and to set a threshold of \$5 per month or \$60 per year, under which no adjustments will be made to accounts for receipt of unauthorized interest credit.

**EFFECTIVE DATE:** April 4, 1986.

**FOR FURTHER INFORMATION CONTACT:** Betty Throne, Realty Specialist, Property Management Branch, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, Washington, DC 20250, telephone (202) 382-1452.

**SUPPLEMENTARY INFORMATION:** This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only corrections or internal agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only corrections (including the removal of unintended harsh results) or internal management, and publication for comments is deemed unnecessary.

This action does not directly affect any FmHA programs or projects which are subject to review under Executive

Order 12372, Intergovernmental Review of Federal Programs.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Some of the FmHA programs and projects affected by these regulations are subject to intergovernmental consultation in the manner delineated in FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities." These programs include Multiple Family Housing and Community and Business programs.

Along with the correction of typographical errors in Part 1951, Subparts M, N and O, Farmers Home Administration (FmHA) is making the following changes:

1. With issuance of Part 1951, Subparts M, N and O, Form FmHA 195-11, "Accelerated Repayment Agreement," was reissued as Form FmHA 1965-11. Inadvertently, a reference to this form in Part 1965, Subpart B, was overlooked, and is now being corrected.

2. Part 1951, Subpart M, is changed to correct several typographical errors and to make the following additional changes:

(a) To exclude from servicing cases where unauthorized interest credit amounting to not more than \$5 per month or \$60 per year was received.

(b) To provide that if a borrower whose loan is subject to recapture of subsidy repays unauthorized interest credit in a lump sum, the payment made on the account under the unauthorized interest credit agreement(s) must be reversed and reapplied correctly before the lump-sum payment is applied. If this is not done, and recapture of subsidy needs to be calculated in the future, the total subsidy granted would be overstated by the amount of the unauthorized interest credit repaid, thus causing FmHA to recapture more subsidy than it should. Not making this revision would result in a situation which is inequitable to the borrower.

(c) To allow FmHA to recover unauthorized interest credit through account adjustments (in lieu of repayment by lump sum) in cases where the unauthorized interest credit was obtained fraudulently. FmHA believes that when the loan was otherwise made properly, liquidation should not be

required in all cases where the borrower obtained interest credit fraudulently provided the unauthorized subsidy has been recovered. To do so would be inequitable to the borrower and would not be in the best interest of the Government since forced liquidation might result in FmHA acquiring the house along with the costs associated with handling and selling inventory property.

Catalog of Federal Domestic Assistance Titles and Numbers:

- 10.410 Low Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Rental Housing Loans
- 10.417 Very Low-income Housing Repair Loans and Grants
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.421 Indian Tribes and Tribal Corporation Loans
- 10.422 Business and Industrial Loans
- 10.423 Community Facilities Loans

#### List of Subjects

##### 7 CFR Part 1951

Account servicing, Credit, Grant programs—Housing and community development, Interest credit, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing, Mortgages, Recapture of subsidy, Reporting requirements, and Rural areas.

##### 7 CFR Part 1965

Administrative practice and procedure, Low and moderate income housing—Rental, Mortgages.

Accordingly, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

#### PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 42 U.S.C. 2942, 5 U.S.C. 301, Sec. 10, Pub. L. 93-357, 88 Stat. 392, 7 CFR 2.23, 7 CFR 2.70, 29 FR 14764, 32 FR 9850.

##### Subpart M—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Single Family Housing

2. In § 1951.604, paragraph (a)(1)(v) is revised to read as follows:

§ 1951.604 Categories of unauthorized SFH assistance.

- (a) \* \* \*
- (1) \* \* \*



(v) Unauthorized or excessive interest credits were granted; however, where the authorized assistance amounts to no more than \$5 per month or \$60 per year, no action will be taken to collect.

#### § 1951.606 [Amended]

3. The introductory text of § 1951.606 is corrected by removing the words, "but is unable to determine whether or not the assistance was received," in the second sentence.

4. In § 1951.608, paragraphs (a)(3) and (b) are revised to read as follows:

#### § 1951.608 Decision on servicing actions.

(a) \* \* \*

(3) In the case of unauthorized interest credit:

(i) If the loan on which the unauthorized interest credit was granted is not subject to recapture of subsidy, as "Miscellaneous Collection for Application to the General Fund."

(ii) If the loan on which the unauthorized interest credit was granted is subject to recapture of subsidy, payments made under the unauthorized interest credit agreement(s) must be reversed and reapplied so that the correct amounts of total subsidy granted and principal reduction attributed to subsidy will be available if recapture must be calculated at a later date. The County Supervisor will request the Finance Office to hold the lump-sum payment in suspense until the payments made under the unauthorized interest credit agreement(s) have been reversed and reapplied correctly. After the account adjustments have been completed, the lump-sum payment will be applied as a regular payment with credit to the borrower as of the date it was collected. Form FmHA 1944-15, "Interest Credit Agreement Cancellation," or Form(s) FmHA 1944-6, "Interest Credit Agreement," as appropriate, to cancel interest credit or adjust the amount of interest credit for each period of time unauthorized interest credit was granted must be submitted simultaneously with the lump-sum payment.

(b) *Continuation with recipient.* If the recipient agrees with FmHA's determination or is willing to pay the amount in question but cannot repay the unauthorized assistance within a reasonable period of time, servicing will be as follows:

(1) *All categories of unauthorized assistance EXCEPT unauthorized or excessive interest credit.* Continuation with the loan is authorized and servicing

actions outlined in § 1951.612 of this subpart will be taken provided ALL of the following conditions are met:

(i) The recipient did not provide false information as defined in § 1951.602(d) of this subpart;

(ii) It would be highly inequitable to require prompt repayment of the unauthorized assistance; and

(iii) Failure to collect the unauthorized assistance in full will not adversely affect FmHA's financial interests.

(2) *Unauthorized or excessive interest credit.* When the unauthorized assistance is solely in the form of unauthorized or excessive interest credit, continuation with the loan is authorized, regardless of whether the borrower provided false information as defined in § 1951.602(d) of this subpart, provided the borrower cooperates in executing documents necessary to effect account adjustments according to § 1951.612(a)(2)(i) of this subpart. After the account is thus adjusted, the unauthorized assistance is deemed to have been fully recovered.

5. Section 1951.612 is amended by adding introductory text to paragraph (a)(2) and by revising paragraph (a)(2)(i) to read as follows:

#### § 1951.612 Servicing options in lieu of liquidation or legal action to collect.

(a) \* \* \*

(2) *Unauthorized interest credit.* When unauthorized interest credit amounting to no more than \$5 per month or \$60 per year is granted, regardless of reason, no account adjustments will be made. For amounts in excess of \$5 per month or \$60 per year adjustments are as follows:

(i) *On outstanding loan.* Continuation with the loan is authorized provided the recipient executes the forms necessary to effect correction of the account through reversal and reapplication of payments. The account will be serviced according to § 1951.618(a)(3) of this subpart for audit cases or § 1951.618(b)(1)(ii) of this subpart for nonaudit cases.

6. Section 1951.618(a)(2) is amended by adding the following sentence to the end of the paragraph: "When Form FmHA 1951-12 is processed, a new Form FmHA 1944-6, "Interest Credit Agreement," must be submitted, if applicable."

7. Section 1951.618(a)(3) is amended by inserting in the first sentence, after the first three words, "amounting to \$5 per month or \$60 per year."

8. In § 1951.618, paragraphs (b)(1)(i) and (ii) are revised to read as follows:

#### § 1951.618 Account adjustments and reporting requirements.

(b) \* \* \*

(1) \* \* \*

(i) *On outstanding loan.* Continuation with the loan is authorized provided the recipient executes the forms necessary to effect correction of the account through reversal and reapplication of payments. The account will be serviced according to § 1951.618(a)(3) of this subpart for audit cases or § 1951.618(b)(1)(ii) of this subpart for nonaudit cases.

(ii) For unauthorized interest credits amounting to \$5 per month or \$60 per year, Form FmHA 1944-15 or Form FmHA 1944-6, as applicable, will be submitted to the Finance Office. Payments will be reversed and reapplied accordingly.

#### Subpart N—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Multiple Family Housing

##### § 1951.658 [Amended]

9. In § 1951.658, the introductory text of paragraph (a) is amended by removing the phrase, "to the Finance Office" from the third sentence.

10. Section 1951.661(a)(1)(i) is revised to read as follows:

#### § 1951.661 Servicing options in lieu of liquidation or legal action to collect.

(a) \* \* \*

(1) \* \* \*

(i) *Correction of problem.* If the problem causing the assistance to be unauthorized can be corrected, corrective action will be required. For example, where a loan was in excess of the authorized amount, the recipient will be required to refund the difference; or where the loan included funds for purchase of excess land, the recipient will be required to sell the excess land and the proceeds will be applied to the account as an extra payment.

#### Subpart O—Servicing Cases Where Unauthorized Loan(s) or Other Financial Assistance Was Received—Community and Insured Business Programs

##### § 1951.711 [Amended]

11. Section 1951.711(b)(1) is corrected in the first sentence by capitalizing the words "Community" and "Business."



12. Section 1951.711 (c) is corrected by changing the word "of" to "on" in the title of the paragraph.

## PART 1965—REAL PROPERTY

13. The authority citation for Part 1965 is revised to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

### Subpart B—Security Servicing for Multiple Housing Loans

#### § 1965.85 [Amended]

14. Section 1965.85(a) is amended in the third sentence by changing the reference from "Form FmHA 465-11" to "Form FmHA 1965-11".

Dated: March 13, 1986.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 86-7504 Filed 4-3-86; 8:45 am]

BILLING CODE 3410-07-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket Nos. 85-AWA-3 and 85-AWA-10]

### Establishment of Airport Radar Service Areas

#### Correction

In FR Doc. 86-2712 beginning on page 4872 in the issue of Friday, February 7, 1986, make the following correction: On page 4880, in the third column, in § 71.501, in the fifth line under "Tampa \* \* \*", "83°" should read "82°".

BILLING CODE 1505-01-M

#### 14 CFR Part 97

[Docket No. 24947; Amdt. No. 1317]

### Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or

changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

*Incorporation by reference—*approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

#### For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

#### For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

#### By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

#### FOR FURTHER INFORMATION CONTACT:

Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 426-8277.

**SUPPLEMENTARY INFORMATION:** This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by

reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number. This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves as established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44



FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on March 21, 1986.

John S. Kern,

Acting Director of Flight Standards.

#### Adoption of the Amendment

#### PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective 5 June 1986

Muncie, IN—Delaware County-Johnson Field, VOR RWY 14, Amdt. 14  
Muncie, IN—Delaware County-Johnson Field, VOR RWY 20, Amdt. 11  
Muncie, IN—Delaware County-Johnson Field, VOR RWY 32, Amdt. 12  
Muncie, IN—Delaware County-Johnson Field, NDB RWY 32, Amdt. 8  
Muncie, IN—Delaware County-Johnson Field, ILS RWY 32, Amdt. 5

Effective 8 May 1986

Alexander City, AL—Thomas C Russell Fld, NDB-A, Amdt. 7  
Fairhope, AL—Fairhope Muni, VOR/DME-A, Amdt. 4  
Pell City, AL—St Clair County, VOR-A, Amdt. 6  
Valdez, AK—Valdez No. 2, MLS/STOL-1 Rwy 6, Amdt. 2  
Sedona, AZ—Sedona, NDB-A, Amdt. 3

Little Rock, AR—Adams Field, VOR RWY 32, Amdt. 18  
Little Rock, AR—Adams Field, NDB RWY 4, Amdt. 16  
Little Rock, AR—Adams Field, NDB RWY 22, Amdt. 4  
Little Rock, AR—Adams Field, ILS RWY 4, Amdt. 22  
Little Rock, AR—Adams Field, ILS RWY 22, Amdt. 6  
Little Rock, AR—Adams Field, RADAR 1, Amdt. 13  
Little Rock, AR—Adams Field, RNAV RWY 22, Amdt. 8  
Little Rock, AR—Adams Field, RNAV RWY 36, Amdt. 8  
Hartford, CT—Hartford-Brainard, NDB-B, Amdt. 6, Cancelled  
Washington, DC—Dulles Intl, NDB RWY 1R, Amdt. 14  
Washington, DC—Dulles Intl, ILS RWY 1R, Amdt. 18  
Washington, DC—Dulles Intl, RNAV RWY 1R, Amdt. 6  
Washington, DC—Washington National, VOR RWY 15, Amdt. 8  
Washington, DC—Washington National, VOR RWY 36, Amdt. 11  
Washington, DC—Washington National, VOR/DME RWY 15, Orig.  
Washington, DC—Washington National, Lincoln LDA/DME RWY 18, Amdt. 1, Cancelled  
Washington, DC—Washington National, LDA/DME RWY 18, Orig.  
Washington, DC—Washington National, NDB RWY 36, Amdt. 9  
Washington, DC—Washington National, ILS RWY 36, Amdt. 36  
Alton/St. Louis, IL—St. Louis Regional, NDB RWY 29, Amdt. 8  
Alton/St. Louis, IL—St. Louis Regional, ILS RWY 29, Amdt. 8  
Chicago (W. Chicago), IL—DuPage, VOR RWY 10, Amdt. 10  
Chicago (W. Chicago), IL—DuPage, ILS RWY 10, Amdt. 6  
Danville, IL—Vermilion County, VOR RWY 21, Amdt. 11  
Danville, IL—Vermilion County, VOR/DME RWY 3, Amdt. 9  
Danville, IL—Vermilion County, ILS RWY 21, Amdt. 3  
Danville, IL—Vermilion County, RNAV RWY 34, Amdt. 2  
Macomb, IL—Macomb Muni, VOR/DME-A, Amdt. 4  
Macomb, IL—Macomb Muni, NDB RWY 26, Amdt. 9  
Mattoon-Charleston, IL—Coles Memorial, VOR RWY 6, Amdt. 11  
Mattoon-Charleston, IL—Coles Memorial, VOR RWY 24, Amdt. 9  
Mattoon-Charleston, IL—Coles Memorial, NDB RWY 29, Amdt. 4  
Mattoon-Charleston, IL—Coles Memorial, ILS RWY 29, Amdt. 4  
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR RWY 9, Amdt. 11  
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR RWY 13, Amdt. 13  
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR or TACAN RWY 4, Amdt. 17  
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR or TACAN RWY 22, Amdt. 10

Fort Wayne, IN—Fort Wayne Muni (Baer Fld), LOC BC RWY 13, Amdt. 10  
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), LOC BC RWY 22, Amdt. 5  
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), NDB RWY 31, Amdt. 20  
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), ILS RWY 4, Amdt. 9  
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), ILS RWY 31, Amdt. 23  
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), RADAR-1, Amdt. 19  
French Lick, IN—French Lick Muni, NDB RWY 26, Orig.  
New Castle, IN—New Castle-Henry County Muni, VOR RWY 27, Amdt. 8  
Abilene, KS—Abilene Muni, RNAV RWY 17, Orig. CANCELLED  
Abilene, KS—Abilene Muni, RNAV RWY 35, Orig.  
Topeka, KS—Philip Billard Muni, ILS RWY 13, Amdt. 29  
Hawesville, KY—Hancock Airfield, VOR RWY 33, Amdt. 3  
Millinocket, ME—Millinocket Muni, VOR-A, Amdt. 10  
Millinocket, ME—Millinocket Muni, NDB RWY 29, Amdt. 3  
Gaithersburg, MD—Montgomery County Arpk, NDB-A, Amdt. 2  
Leonardtown, MD—St Marys County, VOR RWY 11, Amdt. 2  
Fremont, MI—Fremont Muni, VOR RWY 36, Amdt. 4  
Jackson, MI—Jackson County-Reynolds Field, VOR RWY 6, Amdt. 16  
Jackson, MI—Jackson County-Reynolds Field, VOR RWY 14, Amdt. 15  
Jackson, MI—Jackson County-Reynolds Field, VOR RWY 32, Amdt. 14  
Monroe, MI—Custer, VOR-A, Amdt. 2  
Monroe, MI—Custer, RNAV RWY 21, Amdt. 2  
Alexandria, MN—Chandler Field, VOR RWY 22, Amdt. 12  
Alexandria, MN—Chandler Field, NDB RWY 31, Amdt. 2  
Rochester, MN—Rochester Muni, VOR RWY 2, Amdt. 14  
Rochester, MN—Rochester Muni, VOR/DME RWY 20, Amdt. 12  
Rochester, MN—Rochester Muni, RADAR-1, Amdt. 6  
Ocean City, NJ—Ocean City Muni, VOR RWY 6, Orig.  
Cortland, NY—Cortland County-Chase Field, VOR RWY 6, Orig.  
Cortland, NY—Cortland County-Chase Field, VOR/DME RWY 24, Amdt. 2, CANCELLED  
New Bern, NC—Simmons Nott, LOC RWY 4, Amdt. 3, CANCELLED  
New Bern, NC—Simmons Nott, ILS RWY 4, Orig.  
Raeford, NC—Raeford Muni, VOR/DME-A, Amdt. 3  
Bowman, ND—Bowman Muni, NDB RWY 29, Orig.  
Millersburg, OH—Holmes County, VOR-A, Amdt. 5  
Millersburg, OH—Holmes County, NDB RWY 27, Amdt. 4  
Oxford, OH—Miami University, NDB RWY 4, Amdt. 8  
Oxford, OH—Miami University, RNAV RWY 4, Amdt. 4  
Tillamook, OR—Tillamook, NDB-A, Orig.



Hilton Head Island, SC—Hilton Head, VOR/DME-A, Amdt. 8  
 Paris, TN—Henry County, SDF RWY 2, Amdt. 1  
 Paris, TN—Henry County, NDB RWY 2, Amdt. 1  
 Houston, TX—William P. Hobby, VOR/DME RWY 30L, Amdt. 14  
 Milford, UT—Milford Muni, VOR-A, Amdt. 2  
 Brookneal, VA—Brookneal/Campbell County, VOR/DME-A, Orig.  
 Wenatchee, WA—Pangborn Field, VOR/DME-C, Orig.  
 Ravenswood, WV—Jackson County, VOR/DME RWY 3, Amdt. 1  
 Burlington, WI—Burlington Muni, VOR RWY 29, Amdt. 5

*Effective 10 April 1986*

Huntsville, AL—Huntsville-Madison Co Arpt-Carl T Jones Fld, LOC RWY 18L, Orig., CANCELLED  
 Huntsville, AL—Huntsville-Madison Co Arpt-Carl T Jones Fld, ILS RWY 18L, Orig.  
 Waukegan, IL—Waukegan Regional, LOC RWY 23, Amdt. 6, CANCELLED  
 Waukegan, IL—Waukegan Regional, NDB RWY 23, Amdt. 7  
 Waukegan, IL—Waukegan Regional, ILS RWY 23, Orig.  
 Nantucket, MA—Nantucket Memorial, LOC BC RWY 6, Amdt. 6  
 Dallas, TX—Dallas-Love Field, ILS RWY 31R, Orig.

*Effective 18 March 1986*

Reidsville, PA—Mifflin County, LOC RWY 6, Amdt. 6

*Effective 13 March 1986*

Harrison, AR—Boone County, VOR-A, Amdt. 11

*Effective 26 February 1986*

Douglas Bisbee, AZ—Bisbee Douglas Intl, VOR/DME RWY 17, Amdt. 4

[FR Doc. 86-7455 Filed 4-3-86; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Parts 2, 157, and 284

[Docket No. RM85-1-000; Order No. 436-E]

#### Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Order Denying Reconsideration

Issued: March 28, 1986.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order denying reconsideration.

**SUMMARY:** For the reasons stated below, the Federal Energy Regulatory Commission (Commission) is denying a petition filed by the State of Louisiana for reconsideration that the effects of Order No. 436, 50 FR 42408 (1985) will

adversely effect the ability of intrastate pipelines to provide local service.

**EFFECTIVE DATE:** March 28, 1986.

**FOR FURTHER INFORMATION CONTACT:** Thomas P. Gross, Office of the General Counsel, 825 North Capitol Street NW., Washington, DC 20426, (202) 357-8569.

#### SUPPLEMENTARY INFORMATION:

On February 20, 1986, the State of Louisiana filed a petition for reconsideration of Order Nos. 436 and 436-A. Specifically, the State of Louisiana requests reconsideration of the "first-come first-served" requirement as it applies to intrastate pipelines.<sup>1</sup> Louisiana states that service to local communities will suffer because available capacity on intrastate pipelines will be preempted by interstate shippers. Louisiana further states that the Commission has imposed a common carrier status on intrastate pipelines in violation of section 602(b) of the NGPA.

We addressed these issues in Order No. 436-A, *Mimeo.* at pp. 183-191. As indicated there, we have no intention of regulating intrastate transportation, intruding on the discretion of the states to regulate strictly intrastate transactions in the public interest, or impairing the ability of intrastate pipelines to provide reliable service to their intrastate customers. The open access condition of the final rule and the requirements for fairly allocating capacity apply only to interstate transactions after the intrastate pipeline has embarked on interstate service. Even then, intrastate pipelines are required to provide interstate service under section 311 on a non-discriminatory, first-come/first-served basis *only* to the extent that they provide such interstate service. Further, intrastate pipelines are not required to provide firm transportation.

Louisiana does not set forth any specific factual situation where local service will suffer as a result of Order No. 436. We believe there is sufficient flexibility in Order No. 436 to accommodate any exigencies which may arise. Nevertheless, we also recognize that some form of Commission action might be appropriate if situations like those suggested by Louisiana did occur. Therefore, while we are denying Louisiana's petition, we do so without prejudice to Louisiana's filing a later

<sup>1</sup> On February 19, 1986, the Commission also received a letter from the Department of Natural Resources, State of Louisiana addressing the same issue. Letter from Herbert W. Thompson, Assistant Secretary and Commissioner, Department of Natural Resources, Office of Conservation, to Honorable Anthony G. Sousa, Acting Chairman, dated February 19, 1986.

petition if a specific factual situation arises that demands our consideration. We will determine at that time whether the specific facts of that situation justify some waiver or modification of our procedures.

#### Conclusion

In consideration of the forgoing, the Commission denies the State of Louisiana's petition for reconsideration without prejudice.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7451 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

#### 18 CFR Parts 157 and 284

[Docket Nos. RM85-1-144, 145, and 147 through 152; Order No. 436-C]

#### Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Order Denying Rehearing

Issued: March 28, 1986.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order denying rehearing.

**SUMMARY:** The Federal Energy Regulatory Commission is denying rehearing of Order No. 436-A, 50 FR 52217 (1985), on four issues: (1) Whether to eliminate the cumulative provisions for contract reductions/conversions; (2) whether to modify the first-come-first-served principle to use the date of contract execution; (3) whether to subject pipelines that transport direct sale gas to the open-access provision; (4) whether to implement a special tariff procedure for pipelines to flow through take-or-pay liability due to contract reductions/conversion.

**EFFECTIVE DATE:** March 28, 1986.

**FOR FURTHER INFORMATION CONTACT:** Thomas P. Gross, Office of the General Counsel, 825 North Capitol Street, NW., Washington, DC 20426, (202) 357-8569.

#### SUPPLEMENTARY INFORMATION:

On October 9, 1985, the Commission issued Order No. 436,<sup>1</sup> a final rule pursuant to the Natural Gas Act (NGA)<sup>2</sup> and the Natural Gas Policy Act of 1978,<sup>3</sup> which substantially changed the Commission's regulation of the natural gas industry. After receiving a significant number of applications seeking rehearing, we issued Order No. 436-A on December 12, 1985.<sup>4</sup> Since

<sup>1</sup> 50 FR 42408 (October 18, 1985).

<sup>2</sup> 15 U.S.C. 717-717w (1982).

<sup>3</sup> 15 U.S.C. 3301-3432 (1982).

<sup>4</sup> 50 FR 52217 (December 23, 1985).



issuing that order, we have received eight petitions for rehearing of Order No. 436-A.<sup>5</sup> This order denies those petitions.

#### Discussion

##### A. Contract Reductions and Conversions

Section 284.10 of our regulations requires a pipeline that transports gas under the Order No. 436 program to permit every firm sales customer the option to reduce or convert the level of the customer's firm sales entitlements under any eligible firm sales service agreement with that pipeline. Under Order No. 436, §§ 284.10(c)(3) and (d)(3) permitted the customer to elect to reduce or convert, by up to 25 percent per year, the level of its firm sales entitlements under any eligible firm sales service agreement with that pipeline over a four year period. On rehearing, we modified this provision to permit a gradual phase-in of contract reductions and conversions over a five year period as shown below:

Year	Annual changes (percent)	Cumulative reduction/conversion (percent)
1	15	15
2	15	30
3	20	50
4	25	75
5	25	100

Under this graduated schedule, the customers' contract reduction rights would accumulate whether or not it elected the contract reduction or conversion. A number of petitions challenged the cumulative provision.<sup>6</sup>

Generally, these petitioners state that the cumulative provisions of the rehearing order are arbitrary, capricious, and an abuse of discretion, and are not supported by an adequate rationale. They state that while the Commission intends to phase-in the contract reduction and conversion provisions more gradually, the cumulative requirement undercuts this justification. If a customer defers its contract reductions or conversions until the fourth or fifth year, the customer may then elect to reduce its contract demand

by up to 75 percent or 100 percent, respectively, and thereby subject the pipeline to a severe reduction in demand. They contend this result is not consistent with the Commission's stated purpose of allowing a gradual phase-in of contract reductions and request that the Commission modify § 284.10 to provide that the reduction and conversion rights are not cumulative beyond the first year in which the right first vests.

First, we wish to note that the changes to § 284.10 (c) and (d) were made in response to the rehearing petitions of Order No. 436.<sup>7</sup> This change was made to permit a more gradual transitional period, at the end of which customers will be permitted to reduce or convert 100 percent of their contract demand. The phase-in period, itself was also intended to permit pipelines to adjust to their customers' contract demand revisions in a more orderly and less disruptive manner than if customers were permitted to immediately reduce or convert their contract demand by 100 percent. Nevertheless, the purpose of the reduction and conversion options is to free up contracted firm capacity that customers no longer wish to reserve and to provide nondiscriminatory access to competitively priced gas supplies. It would partially defeat the purpose of the rule to insist that customers use or lose their options during each phase of the transition.

While petitioners are fearful that customers will defer the exercise of their conversion and reduction rights until the final years of the transition period, there is no reason to believe that most customers would follow such a course. Customers will exercise these rights to the extent it is in their interest to do so. It is highly unlikely that large numbers of them would defer any action to the final year of the transition period and then exercise their options to the full extent. We would also emphasize that the contract reduction and conversion rights do not apply to all the pipeline's customers. As set forth in § 284.10 (b), (c) and (d), only firm sales customers with service agreements entered into before the date the pipeline accepted the certificate under § 284.221 or began transporting gas under §§ 284.102 or 284.243 are eligible for contract reductions or conversions.

Finally, we note that the graduated scale exists merely for transitional purposes. After the transition period, a pipeline's eligible customers will be permitted to reduce or convert their contract demand by 100 percent in any

year thereafter. It therefore serves no purpose to prevent the customer from exercising those rights cumulatively during the transition period, since the right to exercise a 100 percent reduction or conversion would vest in any event at the end of the transition period.

Two petitioners contend that Order No. 436 and the cumulative provisions of the contract reduction and conversion condition will adversely effect the Nation's long term gas supply in violation of the Commission's mandate under the Natural Gas Act. Texas Eastern states that by allowing a customer to carry over its reduction and conversion rights, the pipeline loses its ability to forecast customer demands. Since gas supply is not an "off-the-shelf" item and must be planned for, and acquired years in advance, Order Nos. 436 and 436-A will act as a disincentive to producer investment in exploration and development of new gas reserves. Similarly, Southern Natural states that these orders do not ensure that consumers will receive reliable gas service at the lowest reasonable price, since the orders rely on uncertain market conditions.

We believe that Order 436 and 436-A are in full compliance with our statutory mandate under the Natural Gas Act and NGPA. By permitting customers some flexibility in selecting their source of gas supply and transporter, customers will select suppliers and transporters that provide services commensurate with their demand. Pipelines and producers will estimate those demands and compete to serve those customers. There is no reason to suspect that this will jeopardize the Nation's long term gas supply since producers and customers can be expected to adjust their supply and demand requirements in response to market conditions. Moreover, we view this to a large extent, as consistent with the regulatory structure encompassed by the NGPA when Congress decided to set maximum lawful prices for some categories of gas and to deregulate other categories of gas. In short, the effect of setting ceiling prices on some supplies and removing price controls from other supplies, is to permit market forces to regulate the supply and demand of that commodity.

##### B. First-come-first-serve

One petitioner, Texas Eastern, raised the issue of "first-come-first-serve." In Order No. 436-A, we stated that "a customer's place in line is determined by when it makes a request for service, not when his contract is executed." *Mimeo.* at p. 159. Texas Eastern states that this condition is without merit since

<sup>5</sup> Applications were filed by Panhandle Producers and Royalty Owners Association; Mesa Petroleum Company; Atlanta Gas Light Company; ANR Pipeline Company, The Coastal Corporation and Colorado Interstate Gas Company (hereinafter ANR et al.); Natural Gas Pipeline Company of America; Southern Natural Gas Company; Interstate Natural Gas Association of America; and Texas Eastern Transmission Corporation.

<sup>6</sup> ANR, et al., Natural Gas Pipeline Company of America, INGAA, Texas Eastern.

<sup>7</sup> Order No. 436, *mimeo.* at pp. 116.



a request may or may not result in a contract, and the terms of that contract may not resemble the terms of the initial request. This will have an adverse effect on new transactions, since capacity allocation to subsequent requests will be unavailable until prior negotiations are completed.

We think Texas Eastern's concerns on this issue are unwarranted. In the first place, prior negotiations cannot delay the allocation of capacity to subsequent requests until all available capacity has been used up. Even at that point, the delay resulting from contrast negotiations is not a concern unless one assumes that requests for capacity will not be made in good faith and that parties will request capacity that they do not really want, just to reserve a place in line.

The Final Rule is designed to minimize such instances. As we indicated in Order No. 436-A, "a person's place in the line is only ensured by a request for service if the customer is willing to pay the maximum rate for service, including any reservation fee where applicable, and of course to meet the reasonable operational conditions on file." Mimeo at 159. The pipelines' freedom to charge a reservation fee should deter parties from booking capacity that they do not really want or need. On the other hand if the rule were modified as Texas Eastern suggests, a pipeline could accept requests for service over a period of time, determine which contract to execute, and thus determine a particular shipper's place in line by virtue of the executed contract. The potential for abuse is obvious and, in our view, far greater than with the method of allocation adopted in Order Nos. 436 and 436-A.

#### C. Transportation of Direct Sale Gas

One petitioner, Atlanta Gas Light, seeks rehearing concerning the Commission's jurisdiction over the transportation of gas by pipelines to direct industrial users under an optional expedited certificate. Atlanta Gas states that the Natural Gas Act limits the Commission's jurisdiction to the transportation of that gas, and that the Commission has no jurisdiction over the direct sale itself. Atlanta Gas contends that pipelines that transport gas to a direct user under an optional expedited certificate should be subject to the same conditions as other pipelines transporting gas. Specifically, Atlanta Gas states that the pipeline transporting the direct sale gas should be subject to the open access conditions and thereby provide local distribution companies capable of serving that end user an opportunity to compete for that

customer. By excluding pipelines who transport direct sale gas from the open access conditions, Atlanta Gas states, those pipelines are given an unfair advantage over other distributors who might compete for those direct sale customers.

The nondiscriminatory access condition embodied in §§ 284.8 and 284.9 of the Commission's regulations is, by definition, a condition of providing transportation service for others on a self-implementing or blanket basis. Its purpose is to enable gas consumers to seek out competitively priced gas and have the means to have the gas transported, and to give the pipelines the flexibility to provide that transportation in a timely, market-responsive way. The optional expedited certificate procedures embodied in §§ 157.100-157.106 of the Commission's regulations are available for both sales and transportation service. To the extent a pipeline uses those procedures to seek authorization to transport gas for others, i.e., to transport gas not owned by the pipeline, § 157.102(c) requires that the pipeline be a nondiscriminatory transporter within the meaning of Part 284. As stated in Order No. 436, "the Commission intends the benefits of the optional certificate procedures to be an incentive for pipelines to provide transportation services on a non-discriminatory, self-implementing basis. In addition, the availability of such non-discriminatory transportation is one of the criteria the Commission considers relevant to the presumption that an optional certificate is in the public convenience and necessity." 50 FR at 42470.

A direct sale does not involve transportation for others within the meaning of Order No. 436. In a direct sale, the pipeline owns the gas being transported; any transportation is incidental to making the sale. Put another way, the pipeline is acting as a merchant rather than as a transporter. Although the commission has rate and certificate jurisdiction over "merchant" pipelines which make sales for resale in interstate commerce, it does not have rate jurisdiction over "merchant" pipelines which make direct sales.

In promulgating the optional expedited certificate regulations, the Commission considered and rejected imposition of the non-discriminatory access condition on every type of certificate authorization contemplated by these regulations. Such imposition would have precluded pipelines which wanted to be nothing but merchants from using the optional expedited certificate procedures. Such a limitation

seemed contrary to the purpose of those procedures to encourage commercial ventures for which the pipelines were willing to assume the risks. On the other hand, pipelines which seek an optional expedited certificate to transport for others have decided to be transporters. For the reasons stated above, it was deemed appropriate to impose the non-discriminatory access condition on such pipelines.

Finally, in response to the petitioner, we note that the optional expedited certificate procedures do not guarantee the issuance of a certificate. In other words, there is no automatic authorization. The procedures provide for notice of an application which may be protested. The petitioner, therefore, is not precluded from participating in a proceeding in which it has an interest.

#### D. Take-or-Pay Obligations

Two petitioners, Panhandle Producers and Royalty Owners Association and Mesa Petroleum Company, request the Commission to allow pipelines the option of establishing tariff provisions for passing through to their customers take-or-pay liability incurred as a result of contract reductions or conversions. They claim this will prevent pipelines from arguing that Order No. 436 is a *force majeure* defense to their take-or-pay liability.

We decline to implement petitioner's suggestion for the same reasons stated before. As stated in Order Nos. 436 and 436-A, nothing in the final rule including the non-discriminatory access and CD reduction/conversion conditions, is intended to affect the rights and obligations of parties to gas supply contracts between pipelines and their suppliers. 50 FR 42443 (1985); Order No. 436-A, Mimeo at 199. Thus, to the extent an LDC or end-user contracts with pipelines for transportation services under Order No. 436, nothing in the order is intended to abridge the rights and obligations regarding take-or-pay liabilities under contracts between those pipelines and their suppliers, including any right to raise *force majeure* as a defense in an appropriate case.

The Commission further states in Order No. 436 that it fully recognizes that the exercise of reduction and conversion options by pipeline customers might require pipelines to adjust their gas supplies under contracts with producers, and for that reason it reaffirmed in the rule the April 10, 1985 Policy Statement concerning take-or-pay buyouts. 50 FR 42443, 42462 (1985). The Commission continues to believe that the tariff mechanism for take-or-pay pass through proposed by Mesa and



Panhandle Assoc. is inconsistent with the use of the guidelines in the Policy Statement as the means for addressing the recovery of take-or-pay obligations. Nonetheless, as we recognized in Order No. 436, it may be possible to identify take-or-pay costs as being caused by a given customer's decision to convert or reduce its contract demand. To the extent this nexus can be demonstrated, those take-or-pay costs would be equitably apportioned among a pipeline's customers in a rate case. FERC Stats. Regs. ¶ 30,665, at 31,524, 50 FR at 42442.

#### Conclusion

In consideration of the foregoing, the Commission denies the petitions for rehearing of Order No. 436-A as specified in this order.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7450 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

#### 18 CFR Parts 157 and 284

#### Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Order Denying Rehearing

[Docket Nos. RM85-1-160 and RM85-1-161; Order No. 436-D]

Issued: March 28, 1986.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order denying rehearing.

**SUMMARY:** The Federal Energy Regulatory Commission is denying rehearing of Order Nos. 436, 50 FR 42,408 (1985), 436-A, 50 FR 52,217 (1985), and 436-B, 51 FR 6,398 (1986), on two issues: (1) Whether to reinstate the February 15, 1986 effective date for contract demand reductions or conversions; and (2) whether a recent decision by the Commission authorizing a pipeline under section 7(c) of the Natural Gas Act to transport gas for end-users impairs the validity of Order No. 436.

**EFFECTIVE DATE:** March 28, 1986.

**FOR FURTHER INFORMATION CONTACT:** Maynard Ugol, Office of the General Counsel, 825 North Capitol Street, NW., (202) 357-8583.

#### SUPPLEMENTARY INFORMATION:

This order concerns two applications for rehearing taken with regard to Order No. 436 and the successor orders which have been issued on rehearing.<sup>1</sup> In the

first, filed March 14, 1985, Michigan Consolidated Gas Company (Mich Con) seeks rehearing of Order No. 436-B, issued February 14, 1986, to reinstate the February 15, 1986 effective date for the contract demand reduction/conversion provisions of Order No. 436. In the second, filed March 17, 1986, the Maryland People's Counsel (MPC) requests rehearing of Order Nos. 436, 436-A and 436-B in light of the order issued February 14, 1986, in *Texas Gas Transmission Corporation*, Docket No. CP86-143-000.<sup>2</sup> We conclude that both requests should be denied insofar as they pertain to Order No. 436-B. The statutory period within which rehearing of Order Nos. 436 and 436-A could be sought has long since expired. MPC's request for rehearing should be dismissed insofar as it pertains to Order Nos. 436 and 436-A.

Order No. 436 provided that the provisions set out in § 284.10(a) of the regulations relating to the options afforded customers of interstate pipelines to reduce a portion of their firm purchase obligation or to convert to firm transportation would not be applicable if any "new" NGPA section 311 transportation was terminated by December 15, 1985. In Order No. 436-A, the effective date of § 284.10(a) was extended to February 15, 1986. The "trigger date" was further extended to July 1, 1986, by Order No. 436-B. In each instance justification was given in the orders for the change in the effective date. In Order No. 436-A, we explained that the modification was necessary to enable "different segments of the industry to adjust their commercial arrangements to take advantage of the new opportunities under Order No. 436, without unduly disrupting transportation during the winter heating season."<sup>3</sup> In Order No. 436-B, we noted claims by several parties "regarding disruption of gas markets as a result of the requirements of § 284.10" and "disruption in ongoing transactions that will occur on February 15, 1986" unless an extension was granted. We also noted our awareness that several major pipelines were engaged in promising negotiations that could lead them to accept the conditions of Order No. 436.<sup>4</sup>

50 FR 42,408 (October 18, 1985); Order No. 436-A, FERC Statutes and Regulations, ¶ 30,675 (1985), 50 FR 52,217 (December 23, 1985); Order No. 436-B, FERC Statutes and Regulations, ¶ 30,688 (1986), 51 FR 6,398 (1986).

<sup>2</sup> 34 FERC ¶ 61,203 (1986).

<sup>3</sup> FERC Statutes and Regulations, Regulations Preambles at 31,650.

<sup>4</sup> III FERC Statutes and Regulations at 30,137-38.

We concluded that, on balance, the extension of the trigger date was worthwhile "to permit these negotiations to proceed without risking the hardships to consumers that will arise if pipelines discontinue NGPA section 311 transactions."<sup>5</sup>

Mich Con, in retrospect,<sup>6</sup> has characterized the first extension to February 15, 1986, as "unnecessary and inappropriate and . . . at best, unsound judgment." Although not stated quite so succinctly, its objections to the further extension in Order No. 436-B appear to be of a like character. We do not agree. Order No. 436 constitutes a major innovation in the regulation of the sale and transportation of natural gas in interstate commerce. As was expected, it has taken the interstate pipelines a substantial period of time to adjust to that order and the implementing regulations, and to make the necessary decisions regarding how best to accommodate to the new requirements. At the same time, in granting the extensions the Commission was mindful that the 1985-86 winter heating season was in full swing, that the necessary arrangements to meet those needs had been made long in advance, that new arrangements would take time to work out, and that the public interest would be ill-served if major disruptions or interruptions were required at the time. Consequently, we believe that the limited extensions granted by the rehearing orders were fully warranted and constitute a small price to pay for the resulting continued stability in the gas markets and transportation. Although Mich Con may find it "not credible" that any major pipeline might have had difficulty in satisfying its supply and transmission requirements without the extensions, the evidence generally available to the Commission in the applications for rehearing filed by the pipelines, as well as other components of the gas industry, convinced us that each extension was necessary.

The arguments presented by Mich Con do not show that the changes in the effective date of § 284.10(a) were not justified. The petition for rehearing of Order No. 436-B and reinstatement of the February 15, 1986 date will be denied.

MPC's application for rehearing is of a different character. It claims that the recent *Texas Gas* order shows that the final rules promulgated by Order No. 436 are in error and should be revised.

<sup>5</sup> *Id.*

<sup>6</sup> Mich Con did not seek rehearing of Order No. 436-A.

<sup>1</sup> Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, FERC Statutes and Regulations, Regulation Preambles, ¶ 30,665 (1985).



The arguments raised by MPC are entirely unrelated to Order No. 436-B, which merely extended the effective date of § 284.10(a). In fact, MPC is attempting to use its request for rehearing of Order No. 436-B as a vehicle to attack other orders for which the time for seeking rehearing has elapsed.<sup>7</sup> Therefore, MPC's pleading is inappropriate and should be denied. Nevertheless, we will use this occasion to address various criticisms contained in MPC's pleading.

The order of which MPC complains granted Texas Gas authority under section 7(c) of the Natural Gas Act to provide interruptible transportation service to 52 end-users. All of the transportation involved either was being performed or had been performed pursuant to an earlier blanket certificate under former section 157.209 of the regulations or the authority granted in special marketing program (SMP) certificates. Order No. 436 replaced the section 157.209 blanket certificate program effective November 1, 1985, and the SMP program expired on October 31, 1985.

In the *Texas Gas* order we acknowledged our concern regarding the potential for undue discrimination, particularly since the effect of the proposal was to certificate, virtually intact, all of the individual transportation arrangements that previously had been performed under self-implementing programs which were found unduly discriminatory in the *Maryland People's Counsel* cases.<sup>8</sup> Nevertheless, based on *Texas Gas*' representation that it would not refuse access to other customers and in light of the absence of any allegation of discrimination by *Texas Gas*' customers, we concluded that approval of the proposal was in the public interest, but that the authorization should be limited to one year so that the services could then be reviewed to determine if *Texas Gas* had been acting in an unduly discriminatory manner.

MPC believes that, on the basis of the *Texas Gas* decision, "the choice given to pipelines whether in offering blanket or self-implementing transportation they

should follow the rules promulgated pursuant to Order No. 436 renders Order No. 436 meaningless." We do not agree. Indeed, we would be hard put to disagree more fully with MPC on this issue.

The Order No. 436 blanket certificate program is wholly voluntary. Pipelines may or may not participate therein. The choice is theirs. Pipelines agreeing to accept a new blanket certificate under the order receive substantial benefits. They also incur a number of duties and obligations. All of these are fully spelled out in Order No. 436. However, the order clearly stated that we would continue to accept and review individual section 7(c) applications on a case-by-case basis. Thus, any pipeline not willing to apply for a new blanket certificate may, as an alternative, request authority under section 7(c). We also indicated in Order No. 436 that any such applications will be scrutinized carefully, particularly applications for individual section 7 transportation arrangements, and that we did not consider undue discrimination any more acceptable under individual section 7 certificates than under self-implementing authority.<sup>9</sup>

In *Texas Gas* there was not a single claim made of undue discrimination in any of the substantial number of interventions filed in that case. Staff's analysis, likewise, noted no undue discrimination. Overall, and as further highlighted in the concurring statement accompanying the *Texas Gas* order, the decision in that case was and is consistent with Order No. 436 and is not in derogation of that order.

Order No. 436 is unimpaired by the decision in *Texas Gas*. MPC's petition for rehearing is no more than a collateral attack on that decision. MPC did not see fit to intervene in that proceeding and cannot now be heard to protest on its findings and conclusions. Although MPC may have believed, as indicated in its petition, that the only transportation services excepted from Order No. 436's coverage would be those services which are an adjunct to a pipeline's merchant function, the order is clear in our commitment to consider and evaluate alternative transportation proposals under section 7(c).

MPC also contends that Order No. 436-B is arbitrary, capricious and contrary to law for the reasons stated in the petition for rehearing filed by Mich Con. Our conclusions on Mich Con's

petition also serve to dispose of this objection.

On March 21, 1986, the Public Service Commission of the State of New York (New York) filed a motion in which it requested that we reject our dismissal MPC's petition for rehearing. New York contends that to the extent MPC's petition seeks rehearing of Order Nos. 436 and 436-A, the statutory date for the filing of such a rehearing petition expired more than two months ago, and that the petition is therefore untimely. New York further points out that Order No. 436-B dealt exclusively with extension of the transition period during which pipelines may continue or initiate certain transportation transactions, and that apart from its adoption of Mich Con's claim regarding the validity of that extension, nothing in MPC's petition is directed to the action taken in Order No. 436-B.

New York also argues that the real thrust of MPC's petition is directed to the *Texas Gas* order, that that order is now final, and that MPC "is not free under the structure of the Natural Gas Act to utilize the allegedly inconsistent action in another proceeding to seek rehearing of final Commission orders." New York further notes its position that there is no inconsistency between the action taken in the *Texas Gas* order and the *Maryland People's Counsel* cases to which MPC refers. Finally, New York notes that MPC has provided no justification for any modification of Order No. 436 to preclude any existing or future certification of non-discriminatory interruptible transportation by pipelines as was done in *Texas Gas*. We agree fully with the arguments presented by New York in opposition to MPC's petition.

#### The Commission Orders

The petitions for rehearing filed in these proceedings by Michigan Consolidated Gas Company on March 14, 1986, and by Maryland People's Counsel on March 17, 1986, are denied. The petition of Maryland People's Counsel is dismissed insofar as it sought rehearing of Order Nos. 436 and 436-A.

By the Commission. Commissioner Stalon concurred in part and dissented in part with a separate statement to be issued later.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7449 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

<sup>7</sup> The final date for seeking rehearing of the *Texas Gas* order was the same as for Order No. 436-B; however, MPC was not an intervenor in the *Texas Gas* proceeding.

<sup>8</sup> *Maryland People's Counsel v. FERC*, 761 F.2d 768 (D.C. Cir. 1985); *Maryland People's Counsel v. FERC*, 761 F.2d 780 (D.C. Cir. 1985).

<sup>9</sup> FERC Statutes and Regulations, Regulations Preambles at 31,512, 50 FR at 42,435.



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Parts 430, 436, and 441

[Docket No. 86N-0070]

## Antibiotic Drugs; Imipenem Monohydrate-Cilastatin Sodium for Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new antibiotic drug, imipenem monohydrate-cilastatin sodium for injection. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

**DATES:** Effective April 4, 1986; comments, notice of participation, and request for hearing by May 5, 1986; data, information, and analyses to justify a hearing by June 3, 1986.

**ADDRESS:** Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Richard Norton, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

**SUPPLEMENTARY INFORMATION:** FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, imipenem monohydrate-cilastatin sodium for injection. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended by revising 21 CFR Parts 430 and 436 and adding 21 CFR Part 441 to provide for the inclusion of accepted standards for the product.

## Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## Submitting Comments and Filing Objections

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this regulation is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The regulation, therefore, is effective April 4, 1986. However, interested persons may on or before May 5, 1986, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before May 5, 1986, a written notice of participation and request for hearing, and (2) on or before June 3, 1986, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order, and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information

prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

## List of Subjects

## 21 CFR Part 430

Administrative practice and procedure, Antibiotics.

## 21 CFR Part 436

Antibiotics.

## 21 CFR Part 441

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Subchapter D of Title 21 of the Code of Federal Regulations is amended as follows:

## PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR Part 430 continues to read as follows:

Authority: Secs. 507, 701(a), 59 Stat. 463 as amended, 52 Stat. 1055 (21 U.S.C. 357, 371(a)); 21 CFR 5.10.

2. Part 430 is amended in § 430.4 by adding new paragraph (a)(55) to read as follows:

## § 430.4 Definitions of antibiotic substances.

(a) \* \* \*

## (55) Imipenem monohydrate.

Imipenem monohydrate is an antibiotic substance having the chemical structure described by the following name: [5R-[5a,6a,(R\*)]]-6-[1-hydroxyethyl]-3-[[2-[[iminomethyl]amino]ethyl]thio]-7-oxo-1-azabicyclo[3.2.0]-hept-2-ene-2-carboxylic acid monohydrate.

3. In § 430.5 by adding new paragraphs (a)(87) and (b)(89) to read as follows:

## § 430.5 Definitions of master and working standards.

(a) \* \* \*

(87) Imipenem. The term "imipenem master standard" means a specific lot of imipenem that is designated by the Commissioner as the standard of comparison in determining the potency of the imipenem working standard.

(b) \* \* \*

(89) Imipenem. The term "imipenem working standard" means a specific lot of a homogeneous preparation of imipenem.

4. In § 430.6 by adding new paragraph (b)(89) to read as follows:



**§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.**

(b) \* \* \*

(89) *Imipenem*. The term "microgram" applied to imipenem monohydrate means the imipenem activity (potency) contained in 1.07 micrograms of the imipenem master standard.

**PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS**

5. The authority citation for 21 CFR Part 436 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

6. Part 436 is amended in § 436.200 by adding new paragraph (i) to read as follows:

**§ 436.200 Loss on drying.**

(i) *Method 9*. Use a suitable thermogravimetric apparatus prepared for vacuum operation. Rapidly and thoroughly grind a portion of the sample and promptly transfer 5 to 10 milligrams to the sample pan. Place the system under vacuum and allow it to come to equilibrium before heating. Obtain an accurate sample weight and continuously record the weight loss as the sample is heated at a rate of 20° per minute from room temperature to about 200 °C. The weight loss plateau, or inflection, at about 150 °C is taken as the total volatile weight loss. Calculate the percent weight loss on drying.

7. By adding new § 436.216 to read as follows:

**§ 436.216 High-performance liquid chromatographic assay.**

(a) *Equipment*. A suitable high-performance liquid chromatograph equipped with:

(1) A suitable detection system specified in the monograph for the drug being tested;

(2) A suitable recording device of at least 25-centimeter deflection;

(3) A suitable chromatographic data managing system; and

(4) An analytical column, 3 to 30 centimeters long, packed with a material as defined in the monograph for the drug being tested; and if specified in that monograph, the inlet of this column may be connected to a guard column, 3 to 5 centimeters in length, packed with the same material of 40 to 60 micrometers particle size.

(b) *Procedure*. Perform the assay and calculate the drug content using the temperature, instrumental conditions, flow rate, and calculations specified in the monograph for the drug being tested. Use a detector sensitivity setting that gives a peak height for the working standard solution that is at least 50 percent of scale with typical chart speed of not less than 2.5 millimeters per minute. Use the equipment described in paragraph (a) of this section. Use the reagents, working standard solution, and sample solution described in the monograph for the drug being tested. Equilibrate and condition the column by

passage of 10 to 15 void volumes of mobile phase followed by five replicate injections of the same volume of the working standard solution. Allow an operating time sufficiently long to obtain satisfactory separation and elution of the expected components after each injection. Record the peak responses and calculate the prescribed system suitability requirements described for the system suitability test in paragraph (c) of this section.

(c) *System suitability test*. Select the system suitability requirements specified in the monograph for the drug being tested. Then, using the equipment and procedure described in this section, test the chromatographic system for assay as follows:

(1) *Tailing factor*. Calculate the tailing factor (*T*), from distances measured along the horizontal line at 5 percent of the peak height above the baseline, as follows:

$$T = \frac{W_{0.05}}{2f}$$

where:

$W_{0.05}$  = Width of peak at 5 percent height; and

$f$  = Horizontal distance from point of ascent to a point coincident with maximum peak height.

(2) *Efficiency of the column*. Calculate the number of theoretical plates (*n*) of the column as follows:



$$n = 5.545 \left[ \frac{t_R}{w_h} \right]^2$$

where:

$n$  = Efficiency, as number of theoretical plates for column;

$t_R$  = Retention time of solute; and

$w_h$  = Peak width at half-height.

(3) = Resolution. Calculate the resolution ( $R$ ) as follows:

$$R = \frac{2(t_{Ri} - t_{Rj})}{\frac{w_i}{i} + \frac{w_j}{j}}$$

where:

$t_{Ri}$  = Retention time of a solute eluting after  $i$  ( $t_{Ri}$  is larger than  $t_{Rj}$ );

$t_{Rj}$  = Retention time of any solute;

$w_i$  = Width of peak at baseline of any solute; and

$w_j$  = Width of peak at baseline of any solute eluting after  $j$ .

(4) Coefficient of variation (relative standard deviation). Calculate the coefficient of variation ( $S_R$  in percent) as follows:

$$S_R = \frac{100}{\bar{X}} \left[ \frac{\sum_{i=1}^N (X_i - \bar{X})^2}{N-1} \right]^{\frac{1}{2}}$$

where:

$\bar{X}$  is the mean of  $N$  of individual measurements of  $X_i$ .

If the complete operating system meets the system suitability requirements of the monograph for the drug being tested,

proceed as described in paragraph (b) of this section, except alternate injections

of the working standard solution with injections of the sample solution.

8. Part 441 is added to read as follows:

## PART 441—PENEM ANTIBIOTIC DRUGS

### Subpart A—Bulk Drugs

Secs.

441.20a Sterile imipenem monohydrate.

### Subpart B—[Reserved]

### Subpart C—Injectable Dosage Forms

441.220 Imipenem monohydrate-cilastatin sodium for injection.

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

### Subpart A—Bulk Drugs

#### § 441.20a Sterile imipenem monohydrate.

(a) Requirements for certification—(1) Standards of identity, strength, quality, and purity. Imipenem monohydrate is the monohydrate form of [5R-[5a, 6a, (R\*)]]-6-(1-hydroxyethyl)-3-[[2-[(iminomethyl) amino]ethyl]thio]-7-oxo-1-azabicyclo[3.2.0]-hept-2-ene-2-carboxylic acid. It is a white to tan colored powder. It is so purified and dried that:

- (i) Its potency is not less than 849 micrograms and not more than 990 micrograms of imipenem per milligram on an anhydrous basis.
- (ii) It is sterile.
- (iii) It is nonpyrogenic.
- (iv) Its loss on drying is not less than 5.0 percent and not more than 8.0 percent.

(v) Its specific rotation in an aqueous solution containing 5 milligrams of imipenem per milliliter at 25 °C is +85° to +95° on an anhydrous basis.

(vi) It gives a positive identity test.

(vii) It is crystalline.

(2) Labeling. It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) Requests for certification; samples. In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, loss of drying, specific rotation, identity, and crystallinity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(a) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(b) For sterility testing: 20 packages, each containing equal portions of approximately 300 milligrams.

(b) Tests and methods of assay—(1) Potency. Proceed as directed in § 436.216 of this chapter, using a column



heater which will maintain at 50 °C column temperature, and ultraviolet detection system operating at a wavelength of 254 nanometers, a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octyl or octadecyl hydrocarbon bonded silicas, a flow rate of 2.0 milliliters per minute, and a known injection volume of 10 microliters. Reagents, working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Reagents*—(a) *Phosphate buffer, 0.001M*. Dissolve 272 milligrams of monobasic potassium phosphate in 1,800 milliliters with deionized water. Adjust the pH to 6.8 with 0.5N sodium hydroxide or dilute phosphoric acid. Dilute to 2,000 milliliters with deionized water and filter prior to use.

(b) *Mobile phase*. Dissolve 2.0 grams of 1-hexanesulfonic acid, sodium salt in 800 milliliters of phosphate buffer, 0.001M. Adjust the pH to 6.8 with 0.5N sodium hydroxide or dilute phosphoric acid and dilute to 1,000 milliliters with phosphate buffer, 0.001M. Filter and degas the mobile phase just prior to its introduction into the chromatograph pumping system.

(c) *0.1 Percent bicarbonate solution*. Dissolve 50 milligrams of sodium bicarbonate in 40 milliliters of phosphate buffer, 0.001M, and dilute to 50 milliliters with phosphate buffer, 0.001M.

(d) *0.9 Percent saline solution*. Dissolve 9.0 grams of sodium chloride in 800 milliliters of deionized water and dilute to 1.0 liter with deionized water.

(ii) *Preparations of working standards and sample solutions*—(a) *Working standard solution*. Accurately weigh approximately 25 milligrams of the imipenem working standard into a 50-milliliter volumetric flask. Immediately prior to analysis, add 10 milliliters of 0.9 percent saline solution and 1 milliliter of 0.1 percent bicarbonate solution. Add phosphate buffer, 0.001M, and shake until dissolved. Sonicate, if necessary, but for not longer than 1 minute. Dilute to volume with phosphate buffer, 0.001M, to obtain a solution containing approximately 500 micrograms of imipenem per milliliter. Mix well and inject immediately.

(b) *Sample solution*. Dissolve an accurately weighed portion (approximately 25 milligrams) of the sample with 10 milliliters of 0.9 percent saline solution and 1 milliliter of 0.1 percent bicarbonate solution in a 50-milliliter volumetric flask. Dilute the sample solution to volume with phosphate buffer, 0.001M, to obtain a solution containing 500 micrograms of imipenem per milliliter (estimated).

(iii) *System suitability requirements*—

(a) *Tailing factor*. The tailing factor (*T*) is satisfactory if it is not more than 1.5 at 10 percent of peak height in lieu of 5 percent of peak height.

(b) *Efficiency of the column*. The efficiency of the column (*n*) is satisfactory if it is greater than 600 theoretical plates for a 30-centimeter column.

(c) *Resolution*. The resolution (*R*)

between the peaks for thienamycin and imipenem is satisfactory if it is not less than 2.0.

(d) *Coefficient of variation (relative standard deviation)*. The coefficient of variation (*S<sub>R</sub>* in percent) of 5 replicate injections is satisfactory if it is not more than 2.0 percent.

If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter. Alternate chromatographic conditions are acceptable provided reproducibility and resolution are comparable to the system. However, the sample preparation described in paragraph (b)(1)(ii)(b) of this section should not be changed.

(iv) *Calculations*. Calculate the micrograms of imipenem per milligram of sample as follows:

$$\begin{array}{l} \text{Micrograms} \\ \text{of imipenem} \\ \text{per milligram} \end{array} = \frac{\frac{A}{u} \times \frac{P}{s} \times 100}{\frac{A}{s} \times \frac{C}{u} \times (100-L)}$$

where:

$\frac{A}{u}$  = Area of the imipenem peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

$\frac{A}{s}$  = Area of the imipenem peak in the chromatogram of the imipenem working standard;

$\frac{P}{s}$  = Anhydrous imipenem activity in the imipenem working standard solution in micrograms per milliliter;

$\frac{C}{u}$  = Milligrams of sample per milliliter of sample solution; and

*L* = Percent loss on drying of the sample.



(7) *Crystallinity*. Proceed as directed in § 436.203(a) of this chapter.

#### Subpart B—[Reserved]

#### Subpart C—Injectable Dosage Forms

##### § 441.220 Imipenem monohydrate-cilastatin sodium for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity*. Imipenem monohydrate-cilastatin sodium is a dry mixture of imipenem monohydrate, cilastatin sodium, and sodium bicarbonate packaged for dispensing. Its potency is satisfactory if it contains not less than 400 micrograms of imipenem and not less than 400 micrograms of cilastatin per milligram. Its imipenem content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of imipenem that it is represented to contain. Its cilastatin content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of cilastatin that it is represented to contain. It is sterile. It is nonpyrogenic. Its loss on drying is not more than 3.5 percent. When reconstituted as directed in the labeling, its pH is not less than 6.5 and not more than 8.5. The imipenem monohydrate used conforms to the standards prescribed by § 441.20a(1).

(2) *Labeling*. It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples*. In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The imipenem monohydrate used in making the batch for potency, sterility, pyrogens, loss on drying, specific rotation, identity, and crystallinity.

(b) The batch for imipenem potency, cilastatin potency, imipenem content, cilastatin content, sterility, pyrogens, loss on drying, and pH.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(a) The imipenem used in making the batch: 10 packages, each containing approximately 500 milligrams.

(b) The batch:

(1) For all tests except sterility: A minimum of 20 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Imipenem and cilastatin potency and content*. Determine the potency of the sample in micrograms per milligram of both imipenem and cilastatin and the milligrams of both imipenem and cilastatin per container. Proceed as directed in § 441.20a(b)(1) of this chapter, preparing the cilastatin reference standard solution, the sample solution and calculating the imipenem and cilastatin potency and content as follows:

(i) *Cilastatin reference standard*. Accurately weigh approximately 25 milligrams of the cilastatin reference standard into a 50-milliliter volumetric flask. Immediately prior to analysis, add 10 milliliters of 0.9 percent saline solution and 1 milliliter of 0.1 percent bicarbonate solution. Add phosphate buffer, 0.001M, and shake until dissolved. Sonicate, if necessary, but for no longer than 1 minute. Dilute to volume with phosphate buffer, 0.001M, to obtain a solution containing approximately 500 micrograms of cilastatin per milliliter. Mix well and inject immediately.

(ii) *Preparation of sample solutions*—(a) *Imipenem and cilastatin potency (micrograms of imipenem and cilastatin per milligram)*. Remove the metal seal from each of 10 containers and determine gross weight in grams. Dissolve and wash out the entire contents of each container with 0.9 percent saline into an appropriate size

volumetric flask to give a concentration of 5 milligrams per milliliter each of imipenem and cilastatin. Further dilute with phosphate buffer, 0.001 molar, to obtain a solution containing 500 micrograms each of imipenem and cilastatin per milliliter (estimated). Wash each stopper and container with small quantities of acetone or methanol three times being careful not to wet the container labeling. Allow the containers to air dry about 3 hours or to constant weight. Weigh each container and stopper to determine tare weight in grams.

(b) *Imipenem and cilastatin content (milligrams of imipenem and cilastatin per container)*. Reconstitute the sample as directed in the labeling, except use 0.9 percent saline solution as the reconstituting fluid. Then, using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Accurately dilute the solution thus obtained in a suitable volumetric flask with sufficient 0.9 percent saline solution to obtain a stock solution containing about 2,500 micrograms of imipenem and 2,500 micrograms of cilastatin per milliliter. Transfer a 10-milliliter aliquot of this solution to a 50-milliliter volumetric flask and dilute to volume with phosphate buffer, 0.001M, to obtain a solution containing 500 micrograms of imipenem and 500 micrograms of cilastatin per milliliter (estimated).

(iii) *Calculations*—(a) Calculate the micrograms of imipenem and cilastatin per milligram as follows:

Micrograms

of imipenem

or cilastatin

per milligram

$$= \frac{\frac{A}{u} \times \frac{P}{s} \times d}{\frac{A}{s} \times 1,000 \times \frac{W}{s}}$$



where:

$\frac{A}{u}$  = Area of the imipenem or cilastatin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

$\frac{A}{s}$  = Area of the imipenem or cilastatin peak in the chromatogram of the imipenem or cilastatin acid working standard;

$\frac{P}{s}$  = Anhydrous imipenem or cilastatin activity in the respective working standards solutions in micrograms per milliliter;

$d$  = Dilution factor for the 10 samples; and

$\frac{W}{s}$  = Net contents of 10 containers in grams (gross weight of 10 containers in grams - tare weight of 10 containers in grams).

(b) Calculate the imipenem or cilastatin content of the container as follows:

$$\begin{array}{l} \text{Milligrams} \\ \text{of imipenem} \\ \text{or cilastatin} \\ \text{per container} \end{array} = \frac{\frac{A}{u} \times \frac{P}{s} \times d}{\frac{A}{s} \times 1,000}$$

where:

$\frac{A}{u}$  = Area of the imipenem or cilastatin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

$\frac{A}{s}$  = Area of the imipenem or cilastatin peak in the chromatogram of the imipenem or cilastatin working standard;

$\frac{P}{s}$  = Anhydrous imipenem or cilastatin activity in the imipenem or cilastatin working standard solution in micrograms per milliliter; and

$d$  = Dilution factor of the sample.

(2) *Sterility*. Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens*. Proceed as directed in § 436.32(a) of this chapter, using a solution containing 5.0 milligrams of imipenem per milliliter except inject 10 milliliters per kilogram of rabbit weight.

(4) *Loss on drying*. Proceed as directed in § 436.200(a) of this chapter.

(5) *pH*. Proceed as directed in § 436.202 of this chapter.

Dated: March 20, 1986.

Sammie R. Young.

Deputy Director, Office of Compliance.

[FR Doc. 86-7369 Filed 4-3-86; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 140

#### Temporary Matching Fund Waiver; Rescission of Regulation

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Rescission of regulation.

**SUMMARY:** This document rescinds FHWA's regulation relating to the temporary matching fund waiver provision in section 145 of the Surface Transportation Assistance Act of 1982 (STAA of 1982). This action is being taken because this regulation is obsolete. The regulation was issued to implement the temporary statutory provision which permitted a State to receive up to 100 percent Federal funds for a project for a period through September 30, 1982.

**EFFECTIVE DATE:** April 4, 1986.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Max I. Inman, Office of Fiscal Services, (202) 426-0562, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

**SUPPLEMENTARY INFORMATION:** Section 145 of the STAA of 1982 (Pub. L. 97-424, 96 Stat. 2097) provided for the temporary waiver of State matching fund requirements for the period January 6, 1983, to September 30, 1984. The FHWA issued a regulation (23 CFR Part 140, Subpart C) on March 3, 1983, to implement this provision and prescribe procedures for States to use when requesting a waiver and making repayment. Waivers were granted to 13 States and all funds were repaid. The final repayment actions were completed on November 4, 1985. No additional waivers were permitted after September 30, 1984. For these reasons, Part 140, Subpart C is no longer operative and is, therefore, rescinded.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. Since this document merely rescinds an obsolete FHWA regulation, public comment is unnecessary. For this reason, the FHWA finds good cause to make the rescission final without prior notice and opportunity for comment and without a 30-day delay in effective date.



under the Administrative Procedure Act. For the same reason, notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Again, for the reasons stated above, the preparation of an economic evaluation is unnecessary, since the economic impact is minimal. Also, under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 23 CFR Part 140

Accounting, Grant programs—  
transportation, Highways and roads.

### PART 140—REIMBURSEMENT

#### Subpart C—Temporary Matching Fund Waiver (Removed and Reserved)

In consideration of the foregoing, the FHWA hereby amends Part 140 of Title 23, Code of Federal Regulations, by removing and reserving Subpart C. (§§ 140.301 through 140.313 and Appendix 4 to Subpart C.)

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations regarding intergovernmental consultation on Federal programs and activities apply to this program)

(23 U.S.C. 315; 49 CFR 1.48(b))

Issued on: March 26, 1986.

Rex C. Leathers,

Associate Administrator for Engineering and Program Development, Federal Highway Administration.

[FR Doc. 86-7521 Filed 4-3-86; 8:45 am]

BILLING CODE 4910-22-M

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

#### 24 CFR Part 115

[Docket No. R-86-1251; FR-2130]

#### Fair Housing; State and Local Laws; Recognition of Substantially Equivalent Laws

**AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

**ACTION:** Recognition of substantially equivalent laws.

**SUMMARY:** Title 24, Part 115 of the Code of Federal Regulations describes the

procedure for recognizing State and local fair housing laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided by the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-19). This notice: (A) Announces the Department's decision to recognize three additional jurisdictions in accordance with § 115.6(c); (B) Announces the Department's denial of recognition of one jurisdiction in accordance with § 115.7(c); (C) Announces the entry into an agreement for interim referrals with one jurisdiction in accordance with § 115.11; and (D) Sets forth the lists required by § 115.6(e).

**EFFECTIVE DATE:** April 4, 1986.

#### FOR FURTHER INFORMATION CONTACT:

Steven J. Sacks, Director, Federal, State and Local Programs Division, Office of Fair Housing and Equal Opportunity, 451 Seventh Street, SW., Washington, DC 20410, (202) 426-3500. (This is not a toll-free number.)

#### SUPPLEMENTARY INFORMATION:

A. On August 2, 1985 (50 FR 31394), the Department published a rule-related notice seeking public comment on the laws of the following three jurisdictions as providing rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided under the Federal Fair Housing Act (the Act) and on the present and past performance of the agencies administering the State or local law: the State of Tennessee; Escambia County, Florida; and Pinellas County, Florida. No public comments were received concerning the recognition of these jurisdictions.

This publication gives notice of the recognition of the State of Tennessee; Escambia County, Florida; and Pinellas County, Florida, in accordance with § 115.6(c).

B. A proposal to grant recognition to the City of Detroit, Michigan was published in the *Federal Register* on February 16, 1984 (49 FR 5938). The comments received, including the opposition to recognition by the Civil Rights Commission of the State of Michigan, were discussed in the Department's publication in the *Federal Register* of August 9, 1984 (49 FR 32049). The HUD Office of General Counsel, after taking into account the comments of the Michigan Department of Civil Rights and an opinion of the Attorney General of the State of Michigan, made a legal analysis of the fair housing law of the City of Detroit, Michigan and made a finding that the law "... on its face, does not provide rights and

remedies for alleged discriminatory housing practices which are substantially equivalent to those provided in Title VIII . . . ." The submitting local official was notified of the denial of recognition by letter dated May 28, 1985.

This publication gives notice of the denial of recognition to Detroit, Michigan in accordance with § 115.7(c).

C. The Assistant Secretary has determined, after application of the criteria set forth in § 115.3, that the fair housing law of the State of Oklahoma, on its face, provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to those provided in the Federal Fair Housing Act, but the law (which became effective November 1, 1985) has not been in effect for a sufficient time to permit demonstration of compliance with the performance standards described in § 115.4.

This publication gives notice of the entry into an agreement for interim referrals with the State of Oklahoma in accordance with § 115.11.

D. On August 9, 1984 (49 FR 32042), the Department published a final rule that amended the recognition procedures under 24 CFR Part 115 to include, among other things, a requirement that HUD annually publish various lists informing the public of the recognition status of jurisdictions (§ 115.6(e)). The last lists were published in the *Federal Register* on October 10, 1984 (49 FR 39676).

The lists required by § 115.6(e) are as follows:

(1) An updated, consolidated list of all State and local jurisdictions recognized as having substantially equivalent fair housing laws:

#### States

Alaska, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Virginia, Washington, West Virginia, and Wisconsin.

#### Localities

Anchorage, Alaska  
Phoenix, Arizona  
District of Columbia  
New Haven, Connecticut  
Clearwater, Florida  
Escambia County, Florida  
Metropolitan Dade County, Florida  
Hillsborough County, Florida  
Jacksonville, Florida  
Orlando, Florida  
Pensacola, Florida



Pinellas County, Florida  
 St. Petersburg, Florida  
 Tallahassee, Florida  
 Tampa, Florida  
 Bloomington, Illinois  
 Evanston, Illinois  
 Park Forest, Illinois  
 Springfield, Illinois  
 Urbana, Illinois  
 Columbus, Indiana  
 East Chicago, Indiana  
 Fort Wayne, Indiana  
 Gary, Indiana  
 South Bend, Indiana  
 Dubuque, Iowa  
 Iowa City, Iowa  
 Kansas City, Kansas  
 Lawrence, Kansas  
 Olathe, Kansas  
 Salina, Kansas  
 Jefferson County, Kentucky  
 Lexington-Fayette, Kentucky  
 Howard County, Maryland  
 Montgomery County, Maryland  
 Prince Georges County, Maryland  
 Minneapolis, Minnesota  
 St. Paul, Minnesota  
 Kansas City, Missouri  
 St. Louis, Missouri  
 Lincoln, Nebraska  
 Omaha, Nebraska  
 New York City, New York  
 Charlotte, North Carolina  
 Mecklenburg County, North Carolina  
 New Hanover County, North Carolina  
 Raleigh, North Carolina  
 Winston-Salem, North Carolina  
 Dayton, Ohio  
 Allentown, Pennsylvania  
 Harrisburg, Pennsylvania  
 Philadelphia, Pennsylvania  
 Pittsburgh, Pennsylvania  
 Reading, Pennsylvania  
 York, Pennsylvania  
 Sioux Falls, South Dakota  
 Knoxville, Tennessee  
 Fort Worth, Texas  
 King County, Washington  
 Seattle, Washington  
 Tacoma, Washington  
 Beckley, West Virginia  
 Charleston, West Virginia  
 Huntington, West Virginia  
 Beloit, Wisconsin

(2) A list of all jurisdictions whose recognition under this Part has been withdrawn since publication of the previous notice:

(3) A list of jurisdictions with respect to which notice of denial of recognition has been published under § 115.7(c) since issuance of the previous notice: Detroit, Michigan.

(4) A list of jurisdictions with respect to which a notice for comment has been published under § 155.6(b) and for which requests for recognition remain pending: Danville, Illinois; Hazel Crest, Illinois; Maywood, Illinois; Marion, Indiana; Boston, Massachusetts; St. Joseph, Missouri; Rockland County, New York; Arlington County, Virginia.

(5) A list of jurisdictions for which notice of proposed withdrawal of

recognition has been published under § 115.8(c) and remains pending: None.

(6) A list of jurisdictions with which an agreement for interim referrals or other utilization of services has been entered under § 115.11: State of Oklahoma.

Dated: March 28, 1986.

William E. Wynn,

Acting General Deputy Assistant Secretary  
 for Fair Housing and Equal Opportunity.

[FR Doc. 86-7536 Filed 4-3-86; 8:45 am]

BILLING CODE 4210-26-M

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

### 29 CFR Part 2201

#### Amendment of Review Commission Regulations Implementing the Freedom of Information Act

**AGENCY:** Occupational Safety and Health Review Commission, Labor.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Review Commission amends regulations it has promulgated implementing the Freedom of Information Act, 5 U.S.C. section 552, as amended November 21, 1974 (Pub. L. 93-502). These regulations are amended to reflect a number of minor changes, including the title of the person delegated to act upon requests for information, the addresses of regional offices, the way Commission decisions are indexed and the procedures for obtaining the index. Because the rule changes are procedural, 5 U.S.C. 553(b)(A) permits them to be effectuated without prior notice or public comment.

**EFFECTIVE DATE:** April 4, 1986.

**FOR FURTHER INFORMATION CONTACT:** Linda A. Smith, 202-634-7943.

For the reasons set forth in the summary, 29 CFR Part 2201 is amended as follows:

#### PART 2201—[AMENDED]

1. The authority citation of Part 2201 continues to read as follows:

Authority: Sec. 12(g), Pub. L. 91-596, 84 Stat. 1804 (29 U.S.C. 661(f)). 5 U.S.C. 552, as amended, 1974 (Pub. L. 93-502).

2. By removing the words "Director of Information and Publications" and inserting, in their place, the words "Public Information Specialist" in the following places:

- (a) 29 CFR 2201.3;
- (b) 29 CFR 2201.4(b);
- (c) 29 CFR 2201.5(b) introductory text, (b)(3), and (c);
- (d) 29 CFR 2201.6 (a), (c), (d), and (e);

- (e) 29 CFR 2201.7 (a), (t) and (d);
- (f) 29 CFR 2201.8(a) introductory text and (b).

3. By revising § 2201.4 (c), (d), and (e) to read as follows:

#### § 2201.4 Information policy.

(c) All final OSHRC decisions (including decisions of the Commission and of its administrative law judges) of general applicability (including concurring and dissenting opinions) are published by the Superintendent of Documents, U.S. Government Printing Office, in a series of microfiche. An example of the official method of citation of Commission decisions printed on microfiche is as follows:

Sample—Secretary v. J.W. Black Lumber Co., 75 OSAHRC 1/B9:

Year decision issued	The official reporter	The year of decision and serial No. of fiche where decision is printed	Coordinates on the fiche for 1st page of cited decision
1975.....	OSAHRC .....	75/1.....	B9..

Copies of individual decisions will also be available from the Commission (see §§ 2201.4(e) and 2201.6(a)).

(d) The Commission maintains an alphabetical and docket number index to all decisions in OSAHRC Reports. This index is published and is available for purchase by contacting the OSHRC Public Information Specialist.

(e) Copies of individual Commission decisions (including administrative law judge decisions) may be obtained free of charge from the following offices:

#### National Office

OSHRC, Public Information Specialist, 1825 K Street, NW., Room 414, Washington, DC 20006. 202-634-7943.

#### Regional Offices

Atlanta, Georgia: 1365 Peachtree Street, NE., Room 240, Atlanta, Georgia 30309-3119. 404-347-4197.

Boston, Massachusetts: John W. McCormack Courthouse, Room 420, Boston, Massachusetts 02109-4501, 617-223-3757.

Dallas, Texas: Federal Building, Room 7B11, 1100 Commerce Street, Dallas, Texas 75242-0791, 214-767-5271.

Denver, Colorado: 1050 Seventeenth Street, Suite 1718, Denver, Colorado 80265-1701, 303-844-2281.

4. By revising § 2201.5(a) to read as follows:

#### § 2201.5 Copies of records.

(a) Copies of documents or records of this agency, or within the custody thereof, or information respecting the time and place of hearings will be



furnished to any person or organization requesting the same in accordance with this part, except for OSAHRC Reports, which are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (See § 2201.4(c)). See § 2201.4(e) for instructions on obtaining copies of individual Commission decisions.

5. By revising § 2201.6(b) to read as follows:

**§ 2201.6 Procedure for obtaining information.**

(b) Persons or organizations wishing to obtain copies of numerous decisions are advised to contact the U.S. Government Printing Office to secure copies of OSAHRC Reports. Copies of the Index to the Decisions of the Occupational Safety and Health Review Commission are available for purchase from the OSHRC Public Information Specialist.

Dated: March 26, 1986.

E. Ross Buckley,  
Chairman.

[FR Doc. 86-7386 Filed 4-3-86; 8:45 am]

BILLING CODE 7600-01-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 917

#### Approval of Permanent Program Amendments From the Commonwealth of Kentucky Under the Surface Mining Control and Reclamation Act of 1977

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

**ACTION:** Final rule.

**SUMMARY:** OSMRE is announcing the approval of a program amendment submitted by Kentucky to modify the State's permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was submitted on December 10, 1985, and pertains to alternative enforcement actions.

After providing for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the

Federal regulations and is approving the amendment. The Federal rules at 30 CFR Part 917 codifying decisions concerning the Kentucky program are being amended to implement this action.

This final rule is being made effective immediately to expedite the State program amendments process and encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

**EFFECTIVE DATE:** April 4, 1986.

**FOR FURTHER INFORMATION CONTACT:** W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Telephone: (606) 233-7327.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSMRE. The Kentucky program was conditionally approved by the Secretary of the Interior subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 Federal Register (47 FR 21404-21435). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings; the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 Federal Register. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 30 CFR 917.15, 30 CFR 917.16 and 30 CFR 917.17.

##### II. Submission of Program Amendments

On December 10, 1985, Kentucky submitted an amendment to its regulations pertaining to alternative enforcement actions (Administrative Record No. KY 681). On January 27, 1986, OSMRE published a notice in the Federal Register (51 FR 3342) announcing receipt of the amendment and inviting public comment on its adequacy. The public hearing scheduled for February 21, 1986, was not held because no one requested an opportunity to testify.

The amendment revises requirements for alternative enforcement actions at 405 KAR 7:090 that were approved by the Director, OSMRE, on November 20, 1985 (50 FR 47728).

The amendment modifies language at 405 KAR 7:090 section 11(2)(a) concerning appropriate action to be taken if a permittee has not abated a violation within thirty days following the prescribed abatement period. The amended language references alternative enforcement actions at KRS 350.990(3), KRS 350.990(4), KRS 350.990(9) and "the pattern of violations provisions of KRS 350.028(4)." The recently approved amended rule at 405 KAR 7:090 section 11(2)(a) did not contain the language "the pattern of violations provisions" in reference to KRS 350.028(4).

##### III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the program amendment submitted on December 10, 1985, concerning alternative enforcement actions, meets the requirements of SMCRA and 30 CFR Chapter VII. Restricting applicability of KRS 350.028(4) for alternative enforcement actions to the pattern of violations provisions of the referenced statutory provision (KRS 350.028(4)) is consistent with the Federal rule at 30 CFR 845.15(b)(2) in its reference to SMCRA section 521(a)(4). The restriction of the application of KRS 350.028(4) to its pattern of violations provisions clarifies that the civil penalty provisions of the statute do not constitute alternative enforcement actions for purposes of the rule. Since the referenced SMCRA section specifically addresses patterns of violations, the Director finds the amended Kentucky rule no less effective than the Federal rule.

##### IV. Public Comment

In response to OSMRE's request for public comments, Thomas J. FitzGerald submitted the following comments on behalf of the Kentucky Resources Council.

Mr. FitzGerald supported the revision of 405 KAR 7:090 section 11(2)(a) saying that it clarifies that "appropriate action" is to be construed consistent with the Federal rule at 30 CFR 845.15(b)(2). Mr. FitzGerald said that the clarification of the reference to KRS 350.028(4) eliminated the ambiguity in the previously approved rule by reflecting that it is not intended that the "mere imposition of civil penalties after the 30-day cessation order period lapses" would constitute appropriate action; rather, the pattern of violation action in KRS 350.028(4) may be taken to satisfy section 11(2)(a).

The Director agrees that the change helps to clarify the Kentucky rule.



## V. Director's Decision

The Director, based on the above findings, is approving the Kentucky program amendment on alternative enforcement actions as submitted on December 10, 1985. The Federal rules at 30 CFR Part 917 are being amended to implement the Director's decision.

## VI. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

## List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: March 31, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

## PART 917—KENTUCKY

30 CFR Part 917 is amended as follows:

1. The authority citation for Part 917 continues to read as follows:

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 917.15 is amended by adding a new paragraph (r) as follows:

## § 917.15 Approval of regulatory program amendments.

(r) The following amendment submitted to OSMRE on December 10, 1985, is approved effective April 4, 1986: revisions to the Kentucky Administrative Regulations in 405 KAR 7:090, section 11(2)(a).

[FR Doc. 86-7471 Filed 4-3-86; 8:45 am]

BILLING CODE 4310-05-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Parts 146, 175, and 181

[CGD 78-174A]

### Boating Safety; Hybrid PFD Carriage Requirements; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

**SUMMARY:** In the Federal Register of February 4, 1986, the Coast Guard published final rules establishing hybrid personal flotation device (PFD) carriage requirements. This document corrects an editorial error in those final rules.

**FOR FURTHER INFORMATION CONTACT:** Mr. Samuel Wehr, Office of Merchant Marine Safety, (202) 426-1444.

**SUPPLEMENTARY INFORMATION:** The final rules of February 4, 1986, were published beginning at p. 4338 of the Federal Register (51 FR 4338). The correction follows below.

### Correction

In FR Doc. 86-2286 beginning on page 4338 in the issue of Tuesday, February 4, 1986, make the following correction:

On page 4339, in the third column under the heading REGULATIONS strike "In consideration of the foregoing, the Coast Guard proposes to amend Parts 146, 175, and 181 of Title 33 of the Code of Federal Regulations as follows:" and insert the following:

In consideration of the foregoing, Parts 146, 175, and 181 of Title 33 of the Code of Federal Regulations are amended as follows:

J. W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

March 31, 1986.

[FR Doc. 86-7446 Filed 4-3-86; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 131

[OW-FRL 2994-5]

### Water Quality Standards for Surface Waters of Mississippi

AGENCY: Environmental Protection Agency.

ACTION: Removal of rule.

**SUMMARY:** EPA is removing a rule that established dissolved oxygen criteria for all designated water uses in the State of Mississippi. EPA believes that the dissolved oxygen criteria recently adopted by the States make the Federally-promulgated rule unnecessary.

**DATE:** This withdrawal is effective May 5, 1986.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosemary Patton, EPA, Region IV, 345 Courtland Street, Atlanta, GA 30365, (404) 347-3116.

### SUPPLEMENTARY INFORMATION:

#### A. Background

On June 9, 1977, the Regional Administrator, Region IV, disapproved the dissolved oxygen criteria for all designated uses in the State of Mississippi because the criteria were not sufficient to assure the protection of a balanced population of aquatic life. Pursuant to Section 303(c) of the Clean Water Act, the State had ninety days to scientifically justify the State adopted criteria or adopt dissolved oxygen criteria that meet requirements of the Clean Water Act. The State failed to take action during the statutorily provided ninety day period and on April 30, 1979, EPA promulgated dissolved oxygen criteria for Mississippi (44 FR 25227). EPA's rule superseded the State's dissolved oxygen criteria so as to assure protection of the designated uses of State waters.

On July 17, 1985, the State of Mississippi revised its dissolved oxygen criteria to be consistent with EPA's rule (presently codified at 40 CFR 131.33). On October 11, 1985, EPA's Regional Administrator for Region IV approved Mississippi's revised dissolved oxygen criteria. Since approval of the State's criteria obviates the need for Federal criteria, EPA herein withdraws the rule at 40 CFR 131.33.

#### B. Statement of Basis and Purposes

EPA's 1979 promulgation is now duplicative of an EPA-approved State water quality standard, and is no longer needed to meet the requirements of the



Clean Water Act. As the Act contemplates Federal promulgation of water quality standards only where a State fails to adopt standards which meet the requirements of the Act, it is EPA's policy to withdraw promulgated water quality standards when the State adopts new or revised standards which meet the requirements of the Act. Accordingly, because EPA's 1979 promulgation for Mississippi is no longer necessary to meet the requirements of the Act, the 1979 promulgation which established Federal dissolved oxygen criteria for Mississippi's waters is withdrawn.

#### C. Availability of Record

The administrative record for the consideration of Mississippi's revised water quality standard is available for public inspection and copying at the Environmental Protection Agency, Region IV Office, Water Management Division, 345 Courtland Street, Atlanta, Georgia 30365, during normal weekday business hours of 8:00 am to 4:30 pm. The approval Mississippi water quality standards are available for inspection and copying from the Criteria and Standards Division (WH-585), 401 M Street, SW., Washington, DC 20460, in Room 2818 of the Mall.

#### D. Regulatory Analysis

This regulation imposes no new regulatory requirement but merely withdraws a Federal regulation that now duplicates a State regulation. Therefore, this rule will not have a significant economic impact on a substantial number of small entities.

#### E. Administrative Procedure

Because Mississippi has adopted, and EPA has approved, beneficial use designations identical to those in the Federal promulgation, withdrawal of the Federal promulgation will have no effect on water quality or on the regulated public. Mississippi complied with the public participation requirements of the Act during its review and revision of its water quality standards. Therefore, EPA has determined that notice of proposed rulemaking and public procedure thereon is unnecessary for this action to withdraw 40 CFR 131.33. This same procedure was followed by EPA in an earlier water quality standards withdrawal action for Alabama (47 FR 53372, November 26, 1982).

#### Lists of Subjects in 40 CFR Part 131

Water pollution control, Intergovernmental relations, Administrative policies and procedures, Reporting and recordkeeping requirements, Water quality standards.

### PART 131—WATER QUALITY STANDARDS

1. The authority citation for Part 131 continues to read as follows:

Authority: Sec. 303(c) of the Clean Water Act, 33 U.S.C. 1313(c).

2. Section 131.33 of Part 131 of Chapter I, Title 40 of the Code of Federal Regulations is removed and reserved.

#### § 131.33 [Removed and Reserved]

Dated: March 24, 1986.

Lee M. Thomas,  
Administrator.

[FR Doc. 86-6695 Filed 4-3-86; 8:45 am]

BILLING CODE 6560-50-M

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Health Care Financing Administration

#### 42 CFR Part 400

[OMB-007-F]

#### Medicare and Medicaid Programs; OMB Control Numbers for Collection of Information Requirements Contained in HCFA Regulations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule and correction notice.

**SUMMARY:** In accordance with Office of Management and Budget (OMB) regulations at 5 CFR Part 1320, implementing the provisions of the Paperwork Reduction Act of 1980, this final rule adds additional OMB control numbers to the display in 42 CFR Chapter IV of currently valid OMB control numbers for approved "collection of information" requirements contained in HCFA regulations.

In addition, we are announcing a correction to a statement made concerning information collection requirements in final rules published on January 10, 1985 at 50 FR 1313, titled, Payment to Health Maintenance Organizations and Competitive Medical Plans.

**EFFECTIVE DATE:** These regulations are effective May 5, 1986. The correction notice is effective February 1, 1985.

**FOR FURTHER INFORMATION CONTACT:** Michael Odachowski, (301) 594-3075.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Agencies are required by Office of Management and Budget (OMB) regulations at 5 CFR Part 1320, implementing the provisions of the Paperwork Reduction Act of 1980 (title

44, U.S.C. Chapter 35), to obtain OMB approval of "collection of information" requirements in any published regulations. Agencies must publish the OMB control number for the approval in the *Federal Register*, thus notifying the public that a paperwork burden an agency seeks to impose has been approved by OMB.

On February 7, 1984, we established at 42 CFR 400.310, a display of currently valid OMB control numbers (49 FR 4476) and we update the display to make changes to valid OMB control numbers.

##### II. Provisions of These Regulations

These regulations update the display of control numbers in 42 CFR 400.310 by adding approved items. We update the list of sections of HCFA regulations that contain collection of information requirements and their assigned control numbers after we receive notices of approval from OMB.

##### III. Correction

When final rules are published prior to our obtaining an OMB control number, we include a statement in the preamble to that rule alerting the public to sections of the rule that are subject to OMB regulations at 5 CFR Part 1320, implementing the provisions of the Paperwork Reduction Act of 1980 and indicating that we will issue notice in the *Federal Register* when OMB approval is obtained. In the preamble to the final rule concerning Medicare Payment to Health Maintenance Organizations and Competitive Medical Plans, published on January 10, 1985 at 50 FR 1313, under item VIII D, Paperwork Burden on page 1344, we identified a number of sections of the regulations that contain information collection requirements. In this listing, we incorrectly included 42 CFR 417.546 and 417.616(e) as subject to OMB approval. These sections do not contain information collection requirements subject to 5 CFR Part 1320. We are correcting the preamble statement on page 1344, column 2, paragraph D, by deleting the references to §§ 417.546 and 417.616(e). The correction is effective February 1, 1985, which was the effective date of the document being corrected. Although the inclusion of these sections was in error, and we are unaware that any party took or failed to take action that would be disadvantageous to them based on that error, we will consider any problem resulting from a February 1, 1985 effective date on a case by case basis.



## IV. Waiver of Proposed Rulemaking

This regulation is intended merely to add to the display in 42 CFR Chapter IV, additional OMB control numbers for approved information collection requirements contained in HCFA regulations. This regulation is technical in nature and to publish in proposed form is unnecessary and would serve no useful purpose. We, therefore, find good cause to waive notice of proposed rulemaking.

## V. Impact Analysis

As noted above, this regulation is technical in nature and merely adds to the display in 42 CFR Chapter IV, additional OMB control numbers of approved information collection requirements contained in HCFA regulations. Therefore, the Secretary has determined that this document does not meet the criteria for a major rule as defined in section 1(b) of Executive Order 12291. In addition, the Secretary certifies, consistent with the Regulatory Flexibility Act, that this document would not have a significant economic impact on a substantial number of small entities.

## VI. List of Subjects in 42 CFR Part 400

Grant programs—health, Health facilities, Health maintenance organizations (HMOs), Medicaid, Medicare, Reporting and recordkeeping requirements.

## PART 400—INTRODUCTION; DEFINITIONS

42 CFR Part 400 is amended as follows:

1. The authority citation for Part 400 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

2. Section 400.310 is amended by adding, in numerical order by CFR section, the following additional sections that contain collections of information and their OMB control numbers.

## § 400.310 Display of currently valid OMB control numbers.

Sections in 42 CFR that contain collections of information	Current OMB control No.
405.460	0938-0337
405.1413, 405.1414, 405.1416	0938-0338
405.2111, 405.2112, 405.2113, 405.2114, 405.2123, 405.2134, 405.2135, 405.2136, 405.2137, 405.2139	0938-0386
412.44	0938-0445
412.118(d)(2)	0938-0337

Sections in 42 CFR that contain collections of information	Current OMB control No.
417.412 (b)(1) and (2), 417.413(a), 417.414(b)(3), 417.418(c)(4), 417.424(b), 417.426, 417.428 (a) and (b), 417.430(b), 417.432(e), 417.436, 417.444(a)(1)(iii), 417.446 (b) and (c), 417.454(b), 417.460 (a)(1), (a)(2), (a)(3), (a)(4), (a)(5)(iv), (a)(7), (b) and (c), 417.474, 417.476, 417.478(d), 417.480(d), 417.481, 417.488(a), 417.488, 417.492 (a) and (b), 417.494 (a)(2) and (3), (b)(3) and (c), 417.520 (b)(2) and (3), 417.522 (a) and (b)(4), 417.532 (d) and (e)(3), 417.548(a), 417.560(d)(2), 417.566(b), 417.568 (a), (b), (d) and (e), 417.570 (b) and (c), 417.572 (a) and (c), 417.576(b), 417.586(a)(2), 417.592(d), 417.594, 417.596, 417.597, 417.598, 417.604(c), 417.608 (a) and (b), 417.616 (a), (b) and (c), 417.620(a)(2), 417.624(a), 417.632, 417.650, 417.662 (a) and (b), 417.690, 417.801, 417.806, 417.810	0938-0406 0938-0445
431.630(b)(1)-(4)	
431.800 (c)(1) and (2), 431.800(d)(1)-(6), 431.800(e)(1)-(7), 431.800 (f)(1) and (5), 431.800 (g)(1), (2) and (3), 431.800 (j)(1), (2) and (3), 431.800 (j)(1), (2) and (3)	0938-0431 0938-0429
447.53(d)	
456.654(a)(9), 466.70(c)(1)-(6), 466.72(b)(2), 466.74 (b) and (c)(1)-(3), 466.78 (b)(2), (3) and (5), 466.80 (b)(1)(i) and (ii), (2)-(4), and 466.94 (a)(1)(i)-(iv) and (c)(1)-(6)	0938-0445
473.18 (a) and (b), 473.34 (a) and (b), 474.36 (a) and (b), 473.42(a)	0938-0443
474.36(b), 474.38 (a), (b), and (c), 474.39 (a) and (b), 474.40 (a), (b) and (c)	0938-0444
476.104(a)(2), 476.105 (a) and (b)(2), 476.116, 476.134 (a), (b), and (c)	0938-0426

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; 13.774, Medicare—Supplementary Medical Insurance)

Dated: February 18, 1986.

Henry R. Desmarais,  
Acting Administrator, Health Care Financing Administration.

Approved: March 12, 1986.

Otis R. Bowen,  
Secretary.  
[FR Doc. 86-7180 Filed 4-3-86; 8:45 am]  
BILLING CODE 4120-01-M

## 42 CFR Part 405

[BERC-337-CN]

## Medicare; Limitations on Reimbursement of Nonphysician Medical Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

**SUMMARY:** This document corrects a final rule, published on October 1, 1985 (50 FR 40168), that established an additional charge factor in determining reasonable charges for certain nonphysician medical services, supplies and equipment reimbursed under the Medicare Supplementary Medical Insurance Program (Part B).

**FOR FURTHER INFORMATION CONTACT:** Stan Weintraub, (301) 597-5345.

**SUPPLEMENTARY INFORMATION:** We are making this correction to clarify that the reasonable charge fee screen to be updated by the inflation adjustment factor includes the inflation-indexed charge as well as the customary charge, the prevailing charge, and the lowest charge level. The changes make the regulations consistent with the policy stated in the preamble to the October 1 document (50 FR 40169).

Therefore, in FR Doc. 85-23471, make the following correction. On page 40174, in the third column, § 405.509 is correctly added to read as follows:

## § 405.509 Determining the inflation-indexed charge.

(a) *Definition.* For purposes of this section, "inflation-indexed charge" means the lowest of the fee screens used to determine reasonable charges (as determined in § 405.503 for the customary charge, § 405.504 for the prevailing charge, this section for the inflation-indexed charge, and § 405.511 for the lowest charge level) for services, supplies, and equipment reimbursed on a reasonable charge basis (excluding physicians' services), that is in effect on September 30 of the previous fee screen year, updated by the inflation adjustment factor, as described in paragraph (b) of this section.

(b) *Application of inflation adjustment factor to determine inflation-indexed charge.* (1) For fee screen years beginning on or after October 1, 1986, the inflation-indexed charge is determined by updating the fee screen used to determine the reasonable charges in effect on September 30 of the previous fee screen year by application of an inflation adjustment factor, that is, the annual change in the level of the consumer price index for all urban consumers, as compiled by the Bureau of Labor Statistics, for the 12-month period ending on March 31 of each year.

(2) For services, supplies, and equipment furnished during FY 1986, the inflation adjustment factor is zero.

(Secs. 1102, 1814(b), 1832, 1833(a), 1842(b) and (h), 1861(b) and (v), 1862(a)(14), 1866(a), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395l(a), 1395u(b) and (h), 1395x(b) and (v), 1395y(a)(14), 1395cc(a), 1395hh, 1395rr, 1395ww, and 1395xx).)

(Catalog of Federal Domestic Assistance Programs: No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 31, 1986.

K. Jacqueline Holz,  
Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-7534 Filed 4-3-86; 8:45 am]

BILLING CODE 4120-01-M



FEDERAL COMMUNICATIONS  
COMMISSION

## 47 CFR Part 73

[MM Docket No. 83-417; RM-4310; RM-4526]

TV Broadcast Stations in Kingsport, TN; Harlan, KY; and Evansville, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** Action taken herein assigns UHF TV Channel 44 to Harlan, Kentucky, as the community's first television assignment in response to comments filed by Holston Valley Broadcasting Corporation.

EFFECTIVE DATE: May 5, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** D. David Weston, Mass Media Bureau (202) 634-6530.

## SUPPLEMENTARY INFORMATION:

## List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

**Authority:** Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

## Report and Order (Proceeding Terminated)

In the Matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Kingsport, Tennessee; Harlan, Kentucky; and Evansville, Indiana) MM Docket No. 83-417, RM-4310, RM-4526.

Adopted: March 18, 1986.

Released: March 28, 1986.

By the Chief, Policy and Rules Divisions.

1. The Commission has before it the *Further Notice of Proposed Rule Making and Order to Show Cause*, 49 FR 45625, published November 19, 1984, seeking comments on the proposed allotment of UHF TV Channel 44 to either Kingsport, Tennessee, as requested by Peggy Ann Rothchild ("Rothchild") or to Harlan, Kentucky, as advanced in a counterproposal filed by Holston Valley Broadcasting Corporation ("HVBC").

2. Kingsport (population 32,027)<sup>1</sup> in Sullivan County (population 143,968) is

<sup>1</sup> Population figures were extracted from the 1980 U.S. Census.

located in eastern Tennessee approximately 140 kilometers (88 miles) northeast of Knoxville, Tennessee. It is served by Station WKPT(TV), Channel 19, Harlan (population 3,024), the seat of Harlan County (population 41,889) is located in eastern Kentucky approximately 75 kilometers (47 miles) northwest of Kingsport. Harlan has no local television service.

3. The *Further Notice* detailed the proposed station operation of each petitioner and the demographics of their respective communities. Rothchild failed to file additional comments indicating a continuing interest in the assignment of Channel 44 to Kingsport, Tennessee. HVBC filed comments reaffirming its interest in the assignment of Channel 44 to Harlan, Kentucky, and provided additional data supporting a first local service.

4. The *Further Notice* also issued a *Show Cause Order* to Station WEVU-TV, Channel 44, Evansville, Indiana, to change the offset from "minus" to "zero" to implement the proposed assignment of Channel 44 to Harlan, Kentucky. No objection to the offset change was received and HVBC has reaffirmed its intent to reimburse the licensee for costs associated with the change in frequency offset.

5. In view of the above considerations, and having found no policy objections to the proposal, we believe the public interest would benefit by assigning UHF Television Channel 44 to Harlan, Kentucky, since it could provide a first commercial television broadcast service to that community.

## § 73.606 [Amended]

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, It Is Ordered, That effective May 5, 1986, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, Is Amended as follows:

City	Channel No.
Harlan, Kentucky.....	44 -
Evansville, Indiana.....	7, *9+, 14-, 25-, and 44

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact D. David Weston, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Ralph A. Haller,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-7520 Filed 4-3-86; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

[MM Docket No. 84-627; RM-4715]

FM Broadcast Station in Goodland, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** Action taken herein assigns FM Channel 299C1 to Goodland, Kansas as that community's second FM allotment in response to a petition filed by Jerrell E. Kautz.

EFFECTIVE DATE: May 5, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** D. David Weston, Mass Media Bureau, (202) 634-6530.

## SUPPLEMENTARY INFORMATION:

## List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

**Authority:** Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

## Report and Order (Proceeding Terminated)

In the Matter of amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (Goodland, Kansas); MM Docket No. 84-627; RM-4715.

Adopted: March 18, 1986.

Released: March 28, 1986.

By the Chief, Policy and Rules Division.

1. The Commission considers herein the *Notice of Proposed Rule Making*, 49 FR 27328, published July 3, 1984, proposing to allot Class C Channel 299<sup>1</sup> to Goodland, Kansas as a second FM allotment. The *Notice* was issued in response to a petition filed by Jerrell E. Kautz ("petitioner") who has restated his intent to apply for Channel 299C1, if allotted. Comments in opposition were filed by Goodland Broadcasting

<sup>1</sup> Petitioner has requested in its comments that channel 299 be allotted as a Class C1 rather than a Class C Channel for economic reasons.



Corporation ("GBC"). Reply comments were filed by petitioner and GBC.

2. GBC alleges that petitioner is a majority stockholder in Station KZMC-FM, McCook, Nebraska, and would be "ineligible" to apply for Channel 299 at Goodland, Kansas because the signals will overlap in violation of the duopoly rules of §73.240 of the multiple ownership rules. In reply petitioner states that he will divest himself of his stock in KZMC at McCook, Nebraska and "any other conflicting interests in this matter."

3. GBC's opposition is directly related to the qualification of petitioner to be a potential licensee of Channel 299 if allotted to Goodland, Kansas. However, we generally do not consider these objections at the rule making stage because which party will ultimately be the successful applicant at Goodland is a matter of mere speculation. The qualifications of a prospective licensee are, therefore, inappropriate in a rule

making proceeding and are more properly raised at the application stage. See *Caldwell, Ohio*, 46 R.R. 2d 1453 (1980); and *Billings, Montana*, 51 R.R. 2d 259 (1982).

4. After careful consideration of the proposal and comments presented in this proceeding, we have determined that Goodland will benefit from the requested allotment since it would provide a second commercial FM allotment to the community. As for the possible violation of the multiple ownership rules to reply comments of the petition satisfy us that this issue can be resolved at the application stage.

#### §73.202 [Amended]

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g), and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, It Is Ordered, That, effective May 5, 1986, the

Table of Allotments, Section 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Goodland, Kansas	273,299C1

6. It Is Further Ordered, That this proceeding is Terminated.

7. The period for filing applications for this channel will open on May 6, 1986 and close on June 4, 1986.

8. For further information concerning this proceeding contact D. David Weston, Mass Media Bureau (202) 634-6530.

Federal Communications Commission.

**Ralph A. Haller,**

Acting Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-7519 Filed 4-3-86; 8:45 am]

BILLING CODE 6712-01-M



# Proposed Rules

Federal Register

Vol. 51, No. 65

Friday, April 4, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 86-ANM-9]

#### Proposed Alteration of Cedar City, Utah, Control Zone and Transition Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to alter the control zone and transition area at Cedar City, Utah, to provide controlled airspace to accommodate a new Instrument Landing System (ILS) approach to the Cedar City Municipal Airport. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

**DATE:** Comments must be received on or before May 20, 1986.

**ADDRESS:** Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 86-ANM-9, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel's office at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Katherine G. Paul, ANM-535, Federal Aviation Administration, Docket No. 86-ANM-9, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2530.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views,

or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ANM-9". The postcard will be date/time stamped and returned to the commenters. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule.

The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

#### The Proposal

The FAA is considering an amendment to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone and transition area at Cedar City, Utah. The changes are necessary to accommodate a new ILS approach to the Cedar City Municipal Airport.

The FAA has determined that this proposed regulation only involves an

established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending § 71.171 as follows:

#### Cedar City, Utah

Within a 5 mile radius of the Cedar City Municipal Airport (lat. 37°42'06" N., long. 113°05'50" W.) and within 2 miles on each side of the Cedar City VOR/DME 195° radial extending from the 5 mile radius zone to the VOR/DME; and, 2 miles on each side of MEGGI LOM (lat. 37°47'28.7" N., long. 113°01'14.2" W.) 214° bearing extending from the 5 mile radius zone to the LOM.

3. By amending § 71.181 as follows:

#### Cedar City, Utah

That airspace extending upward from 700' above the surface within 9.5 miles on the northwest side and 4.5 miles on the southeast side of the MEGGI LOM (lat. 37°47'28.7" N., long. 113°01'14.2" W.) 034° bearing extending from the LOM to 18.5 miles northeast of the LOM; and, that airspace extending from 1,200' above the surface within 7.5 miles east and 12 miles west of the Cedar City VOR/DME (lat. 37°47'14.5" N., long. 113°04'02.08" N.) 184°, and 004° radials extending from 10.5 miles south to 22.5 miles north of the VOR/



DME; and 5.5 miles north and 8.5 miles south of the 264° and .084° radials extending from 17.5 miles west and 7 miles east of the VOR, and 5 miles each side of the Milford, Utah, VORTAC (lat. 38°21'37.4" N., long. 113°00'44.8" W.) 169° radial extending from the VORTAC to 30.5 miles south of the VORTAC.

Issued in Seattle, Washington, on March 25, 1986.

David E. Jones,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86-7454 Filed 4-3-86; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Part 7

#### Underground Mining Equipment; Product Testing by Applicant or Third Party

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice to extend period for public comment on proposed rule.

**SUMMARY:** Due to requests from the public, the Mine Safety and Health Administration (MSHA) is extending the period for public comment on its proposed rule for Underground Mining Equipment; Product Testing by Applicant or Third Party in 30 CFR Part 7.

**DATE:** Written comments on the proposed rule must be received on or before May 7, 1986.

**ADDRESS:** All comments should be sent to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235-1900.

**SUPPLEMENTARY INFORMATION:** On February 6, 1986, MSHA published a proposed rule (51 FR 4686) to implement new procedures and requirements for testing and certification of certain products used in underground mines prior to MSHA approval. The proposal contained new technical requirements for brattice cloth and ventilation tubing, and revised requirements for battery assemblies. The comment period was scheduled to close on April 7, 1986. Due to requests from the public, MSHA is extending the time for commenting on this proposed rule. The comment period is extended to May 7, 1986. All

interested parties are encouraged to submit comments, and comments must be received prior to that date.

Dated: March 27, 1986.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 86-7418 Filed 4-3-86; 8:45 am]

BILLING CODE 4510-43-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 918

#### Louisiana Abandoned Mine Land Reclamation Plan

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** On February 3, 1986, the State of Louisiana submitted to the Office of Surface Mining Reclamation and Enforcement (OSMRE) its proposed abandoned mine land reclamation (AMLR) plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSMRE is seeking public comment on the adequacy of the Plan.

**DATE:** Written comments must be received on or before 5:00 p.m., May 5, 1986.

**ADDRESSES:** Copies of the full text of the proposed Louisiana Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 333 W. 4th Street, Room 3432, Tulsa, OK 74103.

State of Louisiana, Department of Natural Resources, Office of Conservation, 625 North 4th Street, Baton Rouge, LA 70804.

Office of Surface Mining Reclamation and Enforcement, Administrative Record, 1100 L Street, NW., Rm 5315, Washington, DC 20240.

Written comments must be mailed or hand carried to the OSMRE Tulsa Field Office listed above. Comments received after 5:00 p.m. (30 days from publication), will not necessarily be considered or included in the administrative record for this rulemaking.

The administrative record with copies of the plan will be available at the OSMRE Tulsa Field Office (ADDRESS listed above) on Monday through Friday, 8:00 a.m. to 4:00 p.m. excluding holidays.

**FOR FURTHER INFORMATION CONTACT:** Charles V. Smith, Program Manager,

Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Washington, DC 20240, telephone (202) 343-3376.

**SUPPLEMENTARY INFORMATION:** Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. Title IV provides that if the Secretary determines that a State has developed and submitted a proposed plan for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may approve the proposed State plan and grant to the State exclusive responsibility and authority to implement the approved program.

On February 3, 1986, OSMRE received a proposed abandoned mine land reclamation plan from the State of Louisiana. The purpose of this submission is to demonstrate both the intent and capability of the State to assume responsibility for administering and conducting the provisions of SMCRA and OSMRE's abandoned mine land reclamation (AMLR) program (30 CFR Chapter VII, Subchapter R) as published in the Federal Register (FR) on October 25, 1978, 43 FR 49932-49953 and revised on June 30, 1982 (47 FR 28574).

The receipt of the proposed Louisiana plan submission is the first step in process which will result in the establishment of a program for the reclamation of abandoned mine lands in Louisiana.

By submitting a proposed plan, Louisiana has indicated that it wishes to be primarily responsible for the reclamation of abandoned mine lands in that State. If the proposed plan is disapproved and the State does not choose to revise the plan, a Federal AMLR program will be implemented and OSMRE will have primary responsibility for these activities.

OSMRE will hold public hearings on the proposed rule on request only. If requested, the time, date and address for the hearing will be announced in the



Federal Register at least 7 days prior to any hearing scheduled.

Any person interested in a hearing should inform Mr. James H. Moncrief, Director, OSMRE's Tulsa Field Office (see "ADDRESSES") in writing within 30 days of the date of this notice. If no one has contacted Mr. Moncrief to express an interest in participating in a hearing by that date, no hearings will be held. If only a few people express an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSMRE in preparing appropriate questions, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for the submission of written comments (see "ADDRESSES") an advance copy of their testimony.

Representatives of the OSMRE Tulsa Field Office will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. at the request of members of the public to receive their advice and recommendations concerning the proposed Louisiana reclamation plan and program.

Persons wishing to meet with representatives of the Tulsa Field Office during this time period may place such request with Oscar K. Haynes, Program Specialist, telephone (918) 581-7227.

The Department intends to continue to discuss the State's proposed plan with representatives of the State throughout the review process. All contacts between Departmental personnel and representatives of the State will be conducted in accordance with OSMRE's guidelines on contacts with States published September 19, 1979, at 44 FR 54444.

OSMRE has examined this proposed rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it would not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; and
2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to

compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and OSMRE has determined that the rule will not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Further, OSMRE has determined that the proposed Louisiana AML plan does not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's abandoned mine land reclamation program. Therefore, under the Department of the Interior Manual (516 DM6, Appendix 8), the decision on the proposed Louisiana plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. A programmatic EIS has been prepared by OSMRE in conjunction with the implementation of Title IV in general. Moreover, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The proposed Louisiana reclamation plan for abandoned mine land reclamation can be approved if:

1. The public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The State has the legal authority, policies and administrative structure to carry out the amendment.
4. The plan meets all requirements of the OSMRE AMLR program provisions.
5. The State has an approved regulatory program.
6. The plan is in compliance with all applicable State and Federal laws and regulations.

The following constitutes a summary of the contents of the proposed Louisiana Reclamation plan submission: The Louisiana Department of Natural Resources (DNR), Office of Conservation, has been designated by the Governor of Louisiana to implement and enforce the proposed abandoned mine land reclamation program in accordance with SMCRA. The Department has developed State

regulations to carry out the State mandate.

Contents of the proposed State plan submission include:

- (a) A designation by the Governor that DNR is the agency authorized to administer the State reclamation program and to receive and administer grants under Part 886 of this chapter.
- (b) A legal opinion from the State Attorney General that DNR has the authority under State law to conduct the program in accordance with the requirements of Title IV of the Act.
- (c) A description of the policies and procedures to be followed by DNR in conducting the reclamation program, including—

- (1) The purposes of the State reclamation program;
- (2) The specific criteria, consistent with Section 403 of the Act, for ranking and identifying projects to be funded;
- (3) Coordination with other reclamation programs;
- (4) Policies and procedures regarding land acquisition, management and disposal under 30 CFR Part 879;
- (5) Policies and procedures regarding reclamation on private land under 30 CFR Part 882;
- (6) Policies and procedures regarding rights of entry under 30 CFR Part 877; and
- (7) Public participation and involvement in the preparation of the State reclamation plan and the State reclamation program.

(d) A description of the administrative and management structure to be used in conducting the reclamation program, including—

- (1) The organization of the DNR and its relationship to other State organizations or officials that will participate in or augment the agency's reclamation capacity;
  - (2) The personnel staffing policies which will govern the assignment of personnel to the State reclamation program;
  - (3) The purchasing and procurement systems to be used by the agency. Such systems shall meet the requirements of Office of Management and Budget Circular A-102, Attachment O; and
  - (4) The accounting system to be used by the agency, including specific procedures for the operation of the State Abandoned Mine Reclamation Fund.
- (e) A general description, derived from available data, of the reclamation activities to be conducted under the State reclamation plan, including the known or suspected eligible lands and waters within the State which require reclamation including—



(1) A map showing the general location of known or suspected eligible lands and waters;

(2) A description of the problems occurring on these lands and waters; and

(3) How the plan proposes to address each of the problems occurring on these lands and waters.

(f) A general description, derived from available data, of the conditions prevailing in the different geographic areas of the State where reclamation is planned, including—

(1) The economic base;

(2) Significant esthetic, historic or cultural, and recreational values; and

(3) Endangered and threatened plant, fish, and wildlife and their habitat;

(4) Underlying or adjacent coal beds and other minerals and projected methods of extraction; and

(5) Anticipated benefits from reclamation.

Dated: March 31, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

[FR Doc. 86-7481 Filed 4-3-86; 8:45 am]

BILLING CODE 4310-05-M

### 30 CFR Part 935

#### Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** OSMRE is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments submitted by Ohio as amendments to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments submitted consist of proposed changes to Ohio's excess spoil rules. The amendments are proposed to address deficiencies in Ohio's regulatory program with regard to the disposal of excess spoil and to correct typographical and grammatical errors.

This notice sets forth the times and locations that the Ohio program and proposed amendments will be available for public inspection, the comment period during which interested persons

may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

**DATES:** Written comments from the public not received by 4:30 p.m., May 5, 1986 will not necessarily be considered in the decision on whether the proposed amendments should be approved and incorporated into the Ohio regulatory program. If requested, a public hearing on the proposed amendments has been scheduled for April 24, 1986. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by April 21, 1986. If no person has contacted Ms. Hatfield by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

**ADDRESSES:** The public hearing if requested, is scheduled for 1:00 p.m. in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43227.

Written comments and requests for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus Ohio 43227; Telephone: (614) 866-0578.

Copies of the Ohio program, the proposed modification to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSMRE Field Office listed above and at the OSMRE Headquarters Office and the office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315A, 1100 "L" Street, NW., Washington, DC 20240

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Ohio Program

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 *Federal Register* (47 FR 34688). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 *Federal Register*. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11 and 935.15.

##### II. Submission of Revisions

By letter dated March 3, 1986, the Ohio Department of Natural Resources, Division of Reclamation submitted proposed amendments to Ohio's regulatory program at 1501:13-4-05, 1501:13-4-14, and 1501:13-9-07. The proposed changes to OAC sections 1501:13-4-05, and 1501:13-4-14, set forth the permitting requirements for surface and underground mining operations with regard to rock-toe buttresses and key-way cuts.

OAC 1501:13-9-07 is a completely new regulation concerning the disposal of excess spoil. The proposed amendment is necessary to address deficiencies that have been identified in the Ohio program with regard to the disposal of excess spoil.

The full text of the proposed program amendments submitted by Ohio is available for public inspection at the addresses listed above. Upon request to OSMRE's Field Office Director, each person may receive, free of charge, one single copy of the proposed amendments. The Director now seeks public comment on whether the proposed amendments are no less effective than the Federal regulations. If approved, the amendments will become part of the Ohio program.

##### III. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C., 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from section 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory



programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act*: This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

#### List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: March 31, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86-7469 Filed 4-3-86; 8:45 am]

BILLING CODE 4310-05-M

#### 30 CFR Part 935

#### Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** OSMRE is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments submitted by Ohio as amendments to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments submitted by letters dated November 15, 1985 and reconciled by letter dated March 4, 1986, consist of proposed changes to the Ohio statute concerning establishment of a reclamation penalty fund, a reclamation fee fund, and the defaulted areas fund, clarification of the applicability of performance standards to prime farmland reclamation and excess spoil, an increase in the permit renewal fee, procedures for using the defaulted areas

fund, procedures for transferring monies into the defaulted areas fund for reclamation on sites where bond has been forfeited, and many minor editorial changes.

This notice sets forth the times and locations that the Ohio program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

**DATES:** Written comments from the public not received by 4:30 p.m.; May 5, 1986 will not necessarily be considered in the decision on whether the proposed amendments should be approved and incorporated into the Ohio regulatory program. If requested, a public hearing on the proposed amendments has been scheduled for April 24, 1986. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by April 21, 1986. If no person has contacted Ms. Hatfield by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative record.

**ADDRESSES:** The public hearing if requested, is scheduled for 1:00 p.m. in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43232.

Written comments and requests for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866-0578.

Copies of the Ohio program, the proposed modification to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSMRE Field Office listed above and at the OSMRE Headquarters Office and the office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315A, 1100 "L" Street, NW., Washington, DC 20240.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224.

#### FOR FURTHER INFORMATION CONTACT:

Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866-0578.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Ohio Program

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 *Federal Register* (47 FR 34688). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 *Federal Register*. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11 and 935.15.

##### II. Submission of Revisions

By letters dated November 15, 1985, and March 4, 1986, the Ohio Department of Natural Resources submitted three amendment packages numbered 19, 20, and 24 to OSMRE. The packages propose amendments to Ohio Revised Code sections 1513.02, 1513.07, 1513.08, 1513.10, 1513.16, 1513.18, 1513.20, 1513.25, 1513.27, 1513.28, 1513.29, 1513.30, 1513.32, 1513.33, 1513.37, 1513.181, 5749.02 and 5749.021. Most of these changes are editorial in nature.

The changes proposed in QRC 1513.07, 1513.08, 1513.18, 1513.181, 5749.02 and 5749.021 have already been proposed in the October 30, 1985 *Federal Register* (50 FR 45120). The amendments include a severance tax and a fee increase for renewal of permit applications with the requirement to divide the revenues between the various reclamation funds. The amendments also divide forfeited permit sites into two separate categories known as Phase I and Phase II forfeitures. Phase I forfeitures are those on lands affected under permits issued after April 10, 1972, and before September 1, 1981, on which an operator has defaulted. Phase II forfeitures are those affecting permits issued on or after September 1, 1981, on which the operator has defaulted. The proposed amendments also specify the State fund to be used and amount of funding available to reclaim these two types of forfeitures. These proposed amendments were submitted to OSMRE in order to remove a program condition.

Proposed changes to ORC 1513.07, 1513.33 and 1513.37 concerning payment



of a filing fee for permit application filed with county recorders, provisions for removal of permit applications after public review is completed and clarification of certain procedures in the filing and discharging of Abandoned Mined Lands liens were announced in the February 13, 1986 *Federal Register* (51 FR 5373).

This notice contains amendments to the same ORC sections. The amendments create several funds in the State treasury which are to be used to reclaim mine lands on which an operator has defaulted and there is insufficient bond to complete reclamation. The amendments also clarify that all performance standards apply to prime farmland reclamation and excess spoil. The other amendments are primarily of an editorial nature and include changing the names of the funds to be consistent. The amendments contained in package number 24 are the reconciled version of two bills passed by the Ohio legislature in slightly different forms. They include ORC 1513.08, 1513.18 1513.181, 5749.02 and 5749.021.

Ohio has also proposed an amendment to ORC 1513.03. The amendment states that inspectors of coal and surface mining operations serve at the pleasure of the chief of the Division of Reclamation. OSMRE is not proposing this amendment for public comment because the application of State Civil Service protection is outside OSMRE's authority regarding State programs.

The full text of the proposed program amendments submitted by Ohio is available for public inspection at the addresses listed above. Upon request to OSMRE's Field Office Director, each person may receive, free of charge, one single copy of the proposed amendments. The Director now seeks public comment on whether the proposed amendments are no less effective than the Federal regulations. If approved, the amendments will become part of the Ohio programs.

### III. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from section 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or

conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

### List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: March 31, 1986.

James W. Workman,  
Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86-7470 Filed 4-3-86; 8:45 am]

BILLING CODE 4310-05-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 100

[CGD13 86-03]

#### Regatta, Seattle Seafair Unlimited Hydroplane Race

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

**SUMMARY:** The Coast Guard is considering a proposal for a permanent special local regulations to establish an area of controlled navigation upon the waters of Lake Washington, Washington, from 31 July until 3 August 1986. The Special Regulations would be in effect daily Thursday through Saturday, 31 July to 2 August 1986, from 8:00 AM to 5:00 PM, and on Sunday, 3 August 1986 from 8:00 AM until one hour after the conclusion of the last race, and thereafter annually during the week beginning the last Monday in July as published in the Local Notice to Mariners. This is necessary due to the unlimited hydroplane race scheduled for this time period every year since 1952 as part of Seattle's Annual Seafair Unlimited Hydroplane Race. The Coast Guard through this action intends to promote the safety of spectators and

participants in this event, by restricting general navigation in the area.

**DATE:** Comments must be received on or before May 19, 1986.

**ADDRESSES:** Comments should be mailed to Commander (osr), Thirteenth Coast Guard District, 915 Second Ave., Seattle, WA 98174-1067. The comments and other materials referenced in this notice will be available for inspection and copying at the Thirteenth Coast Guard District Office, Room 3542, 915 Second Avenue, Seattle, WA 98174. Normal office hours are between 8:00 A.M. and 4:00 P.M., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

**FOR FURTHER INFORMATION CONTACT:** Chief, Search and Rescue Branch, (206) 442-5880.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD13 86-03) and the specific section of the proposal to which their comments apply, and give reasons for each comment. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is placed, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentation will aid the rule making process.

### Drafting Information

The drafters of this notice are CDR D.H. HAGEN, USCGR, project officer, Thirteenth Coast Guard District Search and Rescue Branch, and LCDR J.M. HAMMOND, USCG, project attorney, Thirteenth Coast Guard District Legal Office.

### Discussion of Proposed Regulations

Each year, SEAFAIR INC., a non-profit corporation, sponsors an unlimited hydroplane regatta on the waters of Lake Washington. This year, that organization is sponsoring the Seattle Seafair Budweiser Emerald Cup Race. This four (4) day event draws several thousand spectators to the beaches and waters surrounding the Lake Washington race course. A large number of these spectators view the event from over eight hundred (800) pleasure craft which anchor around the race course. To promote the safety of both the spectators and the participants,



a special navigation regulation providing Coast Guard personnel with the authority to control and coordinate general navigation in the waters surrounding the race course during the event is required. The Coast Guard has previously published temporary regulations for this annual event. The regulations were essentially republished from year to year without change. These regulations are being made permanent with specific event dates and other information being published annually in the Local Notice to Mariners.

By the authority contained in Title 33, U.S. Code, Section 1233, as implemented by Title 33, Part 100, Code of Federal Regulations, a special local regulation controlling navigation on the waters described is required. By the same authority, the waters involved will be patrolled when appropriate, by vessels of the U.S. Coast Guard. Coast Guard Officers and/or Petty Officers may enforce the regulations and cite persons and vessels in violation.

#### Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of Transportation Regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that full regulatory evaluation is unnecessary. The regulations affect only spectators and participants to the race, and a small number of recreational boaters, and applies to a small area of Lake Washington. In addition the actual race will be in effect for only four (4) days, two (2) of those days being Saturday and Sunday, with a log boom being set up three (3) days prior to the actual race. There is no commercial traffic in this area of the lake. On the other side of the economic equation the benefit in saved property damage and personal injury is potentially very considerable. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 33 CFR Part 100

#### PART 100—[AMENDED]

Marine safety, Navigation (water).

#### Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33 Code of Federal Regulations as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46; and 33 CFR 100.35.

2. Section 100.35-1301 is revised to read as follows:

#### § 100.35-1301 Seattle's Annual Seafair Unlimited Hydroplane Race.

(a) From July 31 to August 2, 1986, this regulation will be in effect from 8:00 A.M. until 5:00 P.M. Pacific Daylight Time. On August 3, 1986, this regulation will be in effect from 0800 until one hour after the conclusion of the last race.

(b) The area where the Coast Guard will restrict general navigation by this regulation during the hours it is in effect is:

(1) The waters of Lake Washington bounded by Mercer Island (Lacey V. Murrow) Bridge, the western shore of Lake Washington, and the east/west line drawn tangent to Bailey Peninsula and along the shoreline of Mercer Island.

(c) The area described in paragraph (b) has been divided into two zones. The zones are separated by a log boom and a line from the southeast corner of the boom to the northeast tip of Bailey Peninsula. The western zone is designated Zone I, the eastern zone, Zone II. (Refer to NOAA chart 18447.)

(d) The Coast Guard will maintain a patrol consisting of active and auxiliary Coast Guard Vessels in Zone II. The Coast Guard patrol of this area is under the direction of the Coast Guard Patrol Commander (the "Patrol Commander"). The Patrol Commander is empowered to control the movement of vessels on the race course and in the adjoining waters during the periods this regulation is in effect.

(e) Only authorized vessels may be allowed to enter Zone I during the hours this regulation is in effect. Vessels in the vicinity of Zone I shall maneuver and anchor as directed by Coast Guard Officers or Petty Officers.

(f) During the times in which the regulation is in effect, swimming, wading, or otherwise entering the water in Zone I by any person is prohibited.

(g) Vessels proceeding in either Zone I or Zone II during the hours this regulation is in effect shall do so only at speeds which will create minimum wake, seven (07) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(h) Upon completion of the daily racing activities, all vessels leaving either Zone I or Zone II shall proceed at speeds of seven (07) miles per hour or less. This maximum speed may be

reduced at the discretion of the Patrol Commander.

(i) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the Patrol Commander shall serve as signal to stop. Vessels signaled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

Dated: March 14, 1986.

H.W. Parker,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 86-7448 Filed 4-3-86; 8:45 am]

BILLING CODE 4910-14-M

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 721

[OPTS-50535; FRL-2884-5]

#### Toxic Substances; Certain Acrylate Chemicals; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for chemical substances which were the subjects of premanufacture notices (PMNs) P-84-341, P-84-342, P-84-343, and P-84-344 and a TSCA section 5(e) consent order issued by EPA. The Agency believes that these substances may be hazardous to human health and that the uses described in this proposed rule may result in significant human or environmental exposure.

**DATE:** Written comments should be submitted by June 3, 1986.

**ADDRESS:** Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-209, 401 M St., SW., Washington, DC 20460.

Comments should include the docket control number OPTS-50535. Non-confidential versions of comments received on this proposal will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107 at the address given above. For further information regarding the submission of comments containing



confidential business information, see Unit XI of this preamble.

#### FOR FURTHER INFORMATION CONTACT:

Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll Free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator 202-554-1404).

#### SUPPLEMENTARY INFORMATION:

##### I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B) of TSCA, submit a notice of EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject generally to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpreted at 40 CFR Part 720 published in the *Federal Register* of May 13, 1983 (48 FR 21722). In particular, these include the information submission requirements of section 5 (b) and (d)(1) of TSCA. In addition, such notices are subject to the regulatory authorities of section 5 (e) and (f) of TSCA. If EPA does not take regulatory action under section 5, 6, or 7 of TSCA to control activities on which it has received a SNUR notice, section 5(g) of TSCA requires the Agency to explain in the *Federal Register* its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707. Persons who intend to import a substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. The EPA policy in support of the import certification requirements appears at 40 CFR Part 707.

##### II. Applicability of General Provisions

EPA promulgated general provisions applicable to SNURs under 40 CFR Part 721, Subpart A published in the *Federal Register* of September 5, 1984 (49 FR 35011). Interested persons should refer to that document for a detailed discussion of the general provisions. EPA is proposing that these general

provisions apply to this SNUR without change except as discussed in this preamble and set forth in § 721.76.

##### III. Summary of this Proposed Rule

The chemical substances which are the subjects of this proposed rule are identified as: 2-Oxepanone, homopolymer, ester with 3-hydroxy-2,2-dimethylpropanoic acid (2:1), di-2-propenoate; 2-Oxepanone, homopolymer, 2-propenoate, (tetrahydro-2-furanyl) methyl ester; 2-Oxepanone, homopolymer, 2-propenoate, ester with 2,2'-[oxybis(methylene)] bis [2-hydroxymethyl]-1,3-propanediol; and 2-Propenoic acid, [2-[1,1-dimethyl-2-[(1-oxo-2-propenyl) oxyethyl]-5-ethyl-1,3-dioxan-5-yl]methyl ester. They were the subjects of PMNs P-84-341, P-84-342, P-84-343, and P-84-344 respectively. EPA proposing to designate the following as significant new uses of the substances: (1) Any use of the substances other than industrial uses; (2) any method of disposal associated with any use of the substance other than by landfill or incineration; and, (3) any manner or method of manufacturing, importing, or processing associated with any use of the substance without establishing a program whereby (a) workers are required to wear protective gloves and clothing while handling the substances and respirators during spray application and roller coating, (b) workers are informed about the protective measures and the health concerns for the substances, (c) containers of the substances are appropriately labeled, and (d) material safety data sheets (MSDSs) for the substances are prepared and made available to workers and recipients of the substances.

The four substances in question are acrylates. EPA has received a substantial number of PMNs for acrylates, has issued section 5(e) orders for most such substances, and will be following up with SNURs for most of them as well. In reviewing acrylate PMNs, EPA has virtually identical human health concerns and has chosen controls on human exposure and environmental release which are basically the same for each acrylate substance and which will be basically the same in each acrylate SNUR. Accordingly, to simplify the process of proposing and promulgating SNURs for such acrylates, and to make significant new uses as consistent as possible, EPA is proposing to use the table format contained in paragraph (a)(2) of proposed § 721.76. Columns 1 and 2 of the table in paragraph (a)(2)(i) identify chemical substances whose identities are not confidential, and which have

been assigned a CAS number, by CAS number, PMN number, and specific chemical name. Columns 1 and 2 of the table in paragraph (a)(2)(ii) will identify chemical substances whose identities are confidential by PMN number and generic chemical name (designated with a G) and chemical substances whose identities are not confidential, but which have not been assigned a CAS number by PMN number and specific chemical name. Columns 3 and 4 of each table will identify the specific significant new uses and recordkeeping requirements applicable to manufacturers, importers, and processors of each chemical substance identified in the charts. The details of these significant new uses and recordkeeping requirements are described in paragraphs (a)(3) and (b)(2) of proposed § 721.76. As future SNURs are proposed for other acrylates, EPA will propose to add the chemical substances to these tables and will identify the significant new uses and recordkeeping requirements that will apply in columns 3 and 4. Because EPA is anticipating adding other acrylates to proposed § 721.76, paragraph (a)(3) contains significant new uses which would not apply to these four substances but which may be used in the future for other acrylates.

##### IV. Background

On January 19, 1984, EPA received PMNs which the Agency designated as P-84-341, P-84-342, P-84-343, and P-84-344. EPA announced receipt of the PMNs in the *Federal Register* of January 27, 1984 (49 FR 3523).

The notice submitter claimed the following as confidential business information (CBI): company identity, chemical identities, and estimated production volume. Through subsequent negotiations with the Agency, the submitter agreed to the use of the specific chemical identities stated above. Under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired by the remaining claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI at this time. The Agency specifically requests comment on this approach for this SNUR rulemaking. For purposes of clarity, these substances will be referred to by their PMN numbers.

The Agency has identified certain acrylates which are structural analogues of the four substances. These analogues



are neopentylglycol diacrylate, pentaerythritol triacrylate, 2-ethylhexyl acrylate, ethyl acrylate, triethylene glycol diacrylate, and tetraethylene glycol diacrylate. Based upon the results of animal bioassays on the structural analogues, the Agency believes the four substances may have carcinogenic potential. Based on the solubility properties and molecular weights of the four substances and the demonstrated ability of analogues to pass through the skin, the gastrointestinal tract, and the lungs into the body, the Agency has determined that the four substances may be absorbed by all routes of exposure. During review of the PMNs, the Agency concluded that the uncontrolled manufacture, import, processing, distribution in commerce, use, and disposal of the substances may present an unreasonable risk of injury to human health. Therefore, EPA regulated the substances under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of their health effects.

EPA concluded that use of appropriate protective equipment during importing and processing of these substances would significantly reduce exposures and potential risks to persons exposed to the substances. A section 5(e) consent order requiring the use of appropriate controls was negotiated with the notice submitter. The order became effective December 4, 1984. The notice submitter did not intend to manufacture the substances in the U.S. or to import them for spray application or roller coating. Therefore these activities were not considered during PMN review and were not allowed under the section 5(e) order. The Agency considered these activities during preparation of this SNUR and decided that they should not be considered significant new uses if proper controls are employed.

By issuing a section 5(e) consent order which allows controlled commercial production and distribution of the substances, EPA has taken a regulatory approach which is appreciably less burdensome than an order prohibiting manufacture of the substances until additional data are submitted. At the same time, the section 5(e) consent order protects human health by requiring precautionary controls pending the development of the data needed for a more fully reasoned evaluation of the risks associated with the substances.

Section 5(e) orders apply only to the notice submitter. When the notice submitter commenced commercial import of the substances and submitted a Notice of Commencement of Import to EPA, the Agency added the substances

to the TSCA Chemical Substance Inventory. When a substance is listed on the Inventory, other persons may manufacture, import, or process the substance without controls. Therefore, EPA is proposing to designate the uses identified in paragraph (a)(2) of the proposed § 721.76 as significant new uses so that the Agency can review these uses before they occur.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements. In addition, a SNUR would afford EPA the opportunity to review exposure and toxicity information on the substances before a significant new use occurs and, if necessary, take action to ensure that persons will not be exposed to levels of P-84-341, P-84-342, P-84-343, and P-84-344 that are potentially hazardous.

#### V. Determination of Proposed Significant New Uses

To determine what would constitute significant new uses of these chemical substances, EPA considered relevant information about the toxicity of the substances, potential exposures and releases associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. Based on these considerations, EPA proposes to define the significant new uses of P-84-341, P-84-342, P-84-343, P-84-344 as identified in the third column of the table in paragraph (a)(2)(i) and further described in paragraph (a)(3) of the proposed § 721.76.

EPA has already determined in the section 5(e) order that unrestricted manufacture, import, processing, distribution in commerce, use, and disposal of the substances may present an unreasonable risk. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that these uses of the substances would be significant.

#### VI. Recordkeeping

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing, under its authority in sections 5 and 8(a) of TSCA, that in addition to meeting the requirements in § 721.17, persons who manufacture, import, or process P-84-341, P-84-342, P-84-343, and P-84-344 maintain the following records for 5 years from their creation:

1. Determinations that gloves are impervious.
2. Names of persons who have attended safety meetings, the dates of such meetings, and copies of any written information provided.

3. Names used for the substances and the dates of use.

4. MSDSs and labels for the substances.

5. The name and address of each person to whom the substances are sold or transferred and the date of such sale or transfer.

6. Information on disposal of the substances, including dates waste material is disposed of, location of disposal sites, volume of any disposed material, estimated volume of any liquid wastes containing the substances, and method of disposal.

These recordkeeping requirements would apply to small manufacturers, importers, and processors as well because the small business exemption of section 8 of TSCA is not applicable when the chemical substances which are the subjects of the rule also are the subjects of a section 5(e) order.

The Agency considered omitting these specific recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult without them. The basis for the Agency's recordkeeping requirements has been set forth in the preambles to previously proposed SNURs. Persons interested in a complete discussion of this issue should read the proposed SNUR for P-83-370 published in the *Federal Register* of January 13, 1984 (49 FR 1753).

#### VII. Exemptions To Reporting Requirements

EPA has codified general exemption provisions covering SNUR reporting under § 721.19. On a case-by-case basis the Agency may modify these provisions. However, in this case, the Agency is proposing that § 721.19 apply in its entirety.

EPA issued its final premanufacture notification rules under 40 CFR Part 720 published in the *Federal Register* of May 13, 1983 (48 FR 21722), including § 720.36 which contained detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in small quantities solely for research and development. On September 13, 1983 (48 FR 41132), EPA stayed the effectiveness of § 720.36, among other provisions of the PMN rule, pending further rulemaking to revise the provisions. Revisions of § 720.36 and other provisions were proposed on December 27, 1984 (49 FR 50201). Because § 720.36 was not in effect when EPA codified § 721.19, the Agency relied on the general definition of "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities qualify



under this exemption. Upon promulgation of a revised § 720.36, EPA intends to amend § 721.19 to adopt the provisions of the revised § 720.36.

Section 721.19(g) of the general SNUR provisions exempts persons from SNUR reporting when they manufacture (the term manufacture includes import) or process the substances solely for export and label the substances in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about worker exposure and environmental release during manufacture and processing of the substances, section 12(a) of TSCA prohibits EPA from requiring reporting of such manufacture or processing for a significant new use. However, such persons would be required to notify EPA of such export under section 12(b) of TSCA (see § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacture and processing activities which are not subject to significant new use reporting. The term "manufacture solely for export" is defined in the PMN rule (40 CFR 720.3(s)); an amendment clarifying this definition was proposed on December 27, 1984 (49 FR 50208). The term "process solely for export" is defined in § 721.3 of the general SNUR provisions in a similar fashion. Thus, persons would be exempt from reporting under this SNUR if they manufacture or process the substances solely for export from the U.S. under the following restrictions: (1) there is no use of the substances in the U.S. except in small quantities solely for research and development; (2) processing is restricted to sites under the control of the manufacturer of processor, respectively; and (3) distribution in commerce is limited to purposes of export. If a person manufactured or processed the substance both for export and for use in the U.S., such activity would not be "solely for export" because manufacture and processing would be for use in the U.S.

#### VIII. Applicability of Proposal To Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substances in question have just undergone premanufacture review. When the notice submitter began import of the substances, the submitter sent EPA a Notice of Commencement of Import, and the substances were added to the Inventory. The notice submitter is prohibited by the section 5(e) order from undertaking the activities which the Agency is proposing be designated as

significant new uses. Therefore, at this time, the Agency has concluded that these uses are not ongoing. However, EPA recognizes that once the chemical substances subject to this SNUR were added to the Inventory, they may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule.

If, after publication of this proposal, someone were to undertake the designated significant new uses, they could argue that the uses are not "new" at the time the rule is promulgated, and therefore not significant new uses. EPA finds that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR. If uses begun during the proposal period were not considered to be significant new uses, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating the proposed significant new uses before the rules became final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if the substances are manufactured, imported, or processed between proposal and promulgation for a proposed significant new use, the Agency will consider such use to be a significant new use if it is retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who begin manufacture, import, or processing of the substances for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption; and, persons who commence a proposed significant new use do so at their own risk.

The Agency, not wishing to unnecessarily disrupt the commercial activities of persons who engage in a proposed significant new use prior to promulgation of a final SNUR, is considering amending Subpart A of 40 CFR Part 721 to allow for advance SNUR compliance (i.e., compliance prior to the date of promulgation). EPA will solicit public comment on an advance compliance exemption when such an exemption is proposed in the Federal Register.

#### IX. Test Data and Other Information

EPA recognizes that, under TSCA section 5, persons are not required to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health risks that

may be posed by a significant new use of these substances, EPA believes that a reasoned evaluation of the risks posed by these uses would require additional data on carcinogenicity. These data might be generated by conducting a 2-year rodent bioassay. These studies may not be the only means of addressing the potential risks.

EPA encourages potential SNUR notice submitters to test the substances for these concerns. SNUR notices submitted for significant new uses without such test data may increase the likelihood that EPA will take action under section 5(e). As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substances.

Test data should be developed according to TSCA good laboratory practices regulations at 40 CFR Part 792. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the health effects of the substances. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances. EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substances and information on risks posed by the substances compared to risks posed by substitutes.

#### X. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for these substances. This evaluation is summarized below.

As a result of promulgation of this SNUR, EPA would incur direct costs of \$43,600. Enforcement costs will also be incurred, but they cannot be quantified at this time.

There are three options available to persons who wish to manufacture, import, or process P-84-341, P-84-342, P-84-343, and P-84-344 subsequent to promulgation of this SNUR. They can (1) stay within the limits of the SNUR; (2) submit a SNUR notice describing the intention to manufacture, import, or process the substances; or, (3) choose not to manufacture, import, or process the substances due to the existence of the SNUR.

A person who stays within the limits of the SNUR will not have to submit a SNUR notice. In order to not trigger the SNUR, however, that person may incur the costs of protective equipment.



labels, MSDSs, and certain disposal methods.

The costs of protective equipment will vary from company to company and will depend on whether they already have equipment on hand. The SNUR requires that the workers wear gloves, goggles, and, in the case of spray application or roller coating, respirators.

On an annual basis, the Agency estimates the equipment costs for a company with no equipment already on hand would total about \$165 per worker. Assuming a 10-year life cycle for the substances and a 10 percent discount rate, the present value of the \$165 is \$1.115; the annualized cost is \$182 per worker.

If labels for these substances have not been made up yet, the addition of a warning statement will probably not be a cost directly attributable to this proposed SNUR. If a new label has to be made, the initial cost will be between \$135-155. The annualized cost of labeling is \$80. Other labeling costs will be minimal.

The cost of developing a MSDS is estimated to be \$20.

The Agency cannot specify the cost of the disposal of these substances by incineration of landfill. Because of the nature of the industrial uses of these substances, it is unlikely that whole drums of waste would be created.

A person who chooses to submit a SNUR notice has two choices. The first is to perform the recommended testing, that is, submit a SNUR notice with the results of a 2-year rodent bioassay. Because the cost of one such assay is approximately \$850,000, the Agency does not expect persons to choose this alternative. The second alternative is for the person to file a SNUR notice with data showing that its means of controlling exposures could mitigate the Agency's concern. The cost of filing a SNUR notice is estimated at \$1,400-\$8,000. In addition, the submitter might incur the cost of some exposure controls, a reduction in profits (up to 3.2 percent) due to delays in manufacture, and the cost of regulatory follow up.

If a person found the cost of controlling exposure and release too expensive to justify manufacture, import, or processing of the substances, there would not be any direct costs as a result of the proposed SNUR. The fact that the original PMN submitter intends to import and process the substances under the terms of the section 5(e) consent order, however, indicates that some uses of the substances will return an acceptable profit.

The Agency has not attempted to quantify the benefits of the proposed SNUR. In general, however, benefits will

accrue if the proposed action leads to the identification and control of unreasonable risk before significant health effects can occur. The use of personal protective equipment will give workers protection against a number of potentially dangerous chemicals, in addition to P-84-341, P-84-342, P-84-343, and P-84-344.

The Agency's complete economic analysis is available in the public file.

#### XI. Confidential Business Information

Any person who submits comments which the person claims as CBI must work the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any person submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

#### XII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-50535). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now include the following:

1. The PMNs for the substances.
2. The Federal Register notice of receipt of the PMNs.
3. The section 5(e) consent order.
4. The economic analysis of this proposed rule.
5. The toxicology support document for the section 5(e) order.
6. The engineering support document for the section 5(e) order.

The Agency will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record.

EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing sanitized copies from which CBI has been deleted is available to the public from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OTS Public Information Office, Room E-107, 401 M Street SW., Washington, D.C.

#### XIII. Regulatory Assessment Requirements

##### A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is

"major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major rule" because it will not have an effect on the economy of \$100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this proposed rule, for the reasons discussed in Unit X of this preamble, EPA believes that the cost will be low. In addition, because of the nature of the proposed rule and the substances identified in it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice, the suggested testing, and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage innovation of high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

##### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that few manufacturers, importers, or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this proposed rule might be significant for some small businesses, the number of such businesses affected is not expected to be substantial.

##### C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070-0012. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

##### List of Subjects in 40 CFR Part 721

Environmental protection. Chemicals. Hazardous substances. Reporting and



recordkeeping requirements, Significant new uses.

Dated: March 24, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 721 be amended as follows:

#### PART 721—[AMENDED]

1. The authority citation for Part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding a new § 721.76 to Subpart B to read as follows:

#### § 721.76 Certain Acrylates.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The table in paragraphs (a)(2) of this section contain specific acrylate and methacrylate chemical substances. They are listed in the table in paragraph (a)(2)(i) by their CAS numbers, Premanufacture Notice (PMN) numbers, and specific chemical names if they have been assigned a CAS number and if their chemical identities are not confidential. They are listed in the table in paragraph (a)(2)(ii) by their PMN numbers and generic chemical names (designated by a G) if their identities are confidential or by their PMN numbers and specific chemical names if their identities are not confidential and they have not been assigned a CAS number. Persons who manufacture, import, or process these substances are subject to reporting for the significant new uses identified in column three of each table. Those significant new uses are described in paragraph (a)(3) of this section. Such persons are also subject to the recordkeeping requirements identified in column four of each table which are described in paragraph (b)(2) of this section.

(2) List of substances. (i) *Substances with non-confidential identities and CAS numbers.*

CAS/PMN No.	Chemical name	Significant new uses from paragraph (a)(3)	Specific requirements from paragraph (b)
87320-05-8 (P-84-344)	2-Propenoic acid, [2- 1,1,1-trimethyl-2- [(1-oxo-2-propenyl)- oxy] ethyl]-5- ethyl-1,3- dioxan-5- yl] methyl ester.	(a)(3)(i)(A)(1) through (3), (B)(1)(i) through (iii), (2), (C)(1) through (5), (D)(1)(i) through (iii), (2), (3), (E)(1), (2), (ii)(A), (B), (iii).	(b)(1)(i), (b)(2)(i) through (vii).

CAS/PMN No.	Chemical name	Significant new uses from paragraph (a)(3)	Specific requirements from paragraph (b)
96915-49-0 (P-84-341)	2-Oxepanone, homopolymer, ester with 3-hydroxy-2,2-dimethylpropanoic acid (2:1), di-2-propenoate.	(a)(3)(i)(A)(1) through (3), (B)(1)(i) through (iii), (2), (C)(1) through (5), (D)(1)(i) through (iii), (2), (3), (E)(1), (2), (ii)(A), (B), (iii).	(b)(1)(i), (b)(2)(i) through (vii).
96915-50-3 (P-84-342)	2-Oxepanone, homopolymer, 2-propenoate, (tetrahydro-2-furanyl) methyl ester.	(a)(3)(i)(A)(1) through (3), (B)(1)(i) through (iii), (2), (C)(1) through (5), (D)(1)(i) through (iii), (2), (3), (E)(1), (2), (ii)(A), (B), (iii).	(b)(1)(i), (b)(2)(i) through (vii).
96915-52-5 (P-84-343)	2-Oxepanone, homopolymer, 2-propenoate, ester with 2,2-[oxybis(methylene)] bis[2-hydroxy-methyl]-1,3-propanediol.	(a)(3)(i)(A)(1) through (3), (B)(1)(i) through (iii), (2), (C)(1) through (5), (D)(1)(i) through (iii), (2), (3), (E)(1), (2), (ii)(A), (B), (iii).	(b)(1)(i), (b)(2)(i) through (vii).

(ii) *Substances with confidential identities or non-confidential identities and no CAS number.* [Reserved]

(3) *Significant new uses.* (i) Any manner or method of manufacturing, importing, or processing associated with any use of the designated substance without establishing a program whereby:

(A) During all stages of manufacture, import, processing, and use of the substance any person who may be exposed to the substance dermally must wear:

(1) Gloves determined by the manufacturer, importer, or processor to be impervious to the substance under the conditions of exposure, including the duration of exposure. The manufacturer, importer, or processor makes this determination either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications includes consideration of permeability, penetration, and potential chemical and mechanical degradation by the substance and associated chemical substances.

(2) Clothing which covers areas of the arms, legs, and torso which would otherwise be exposed.

(3) Chemical safety goggles, unless a full face type respirator is worn.

(B)(1) During all stages of manufacture, import, processing, and use of the substance any person who may be exposed to the substance in the form of an aerosol or mist from spray application or roller coating operations must, at a minimum, wear one of the following:

(i) a National Institute for Occupational Safety and Health (NIOSH) approved, category 21c, high efficiency filter respirator, excluding single-use or disposable types, in accordance with 30 CFR 11.150.

(ii) A NIOSH approved category 23c respirator equipped with combination cartridges and approved for paints, enamels, and lacquers.

(iii) A NIOSH approved category 19c air-supplied respirator.

(iv) A NIOSH approved category 23C respirator, excluding single-use or disposable types, in accordance with 30 CFR Part 11, equipped with combination cartridges approved for paints, enamels, and lacquers, unless an air supplied respirator is selected.

(2) The selected respirator is used in accordance with 29 CFR 1910.134 and 30 CFR Part 11.

(C) All workers required to wear protective clothing or equipment are informed in writing, and by presenting the information as part of a training program in safety meetings at which attendance is recorded, of the following information:

(1) To avoid contact with the substance.

(2) That contact with the skin may be harmful.

(3) That chemicals similar in structure to the substance have been found to cause cancer in laboratory animals.

(4) That to protect themselves, they must wear the protective equipment described under paragraph (a)(3)(i)(A) of this section while handling the substance.

(5) That to protect themselves, they must use the controls described in paragraph (a)(3)(i)(B) of this section during spray application and roller coating operations during which they might be exposed to the substance in the form of an aerosol or mist.

(D) A label is affixed to each container of the substance, or of a formulation containing the substance, that may be distributed to another person, in which:

(1) A warning statement is included that consists, at a minimum, of either the language prescribed by EPA in any



order issued under section 5(e) of the Act for the substance or of the following language:

(i) **Warning:** Avoid all Contact. Contact with skin may be harmful. Chemicals similar in structure to [insert appropriate name] have been found to cause cancer in laboratory animals.

(ii) To protect yourself, you must wear chemical safety goggles or equivalent eye protection, impervious gloves, and protective clothing while handling this material.

(iii) In addition, you must wear a respirator during spray application or roller coating operations.

(2) The first word on the label is capitalized, and the type size of the first word is no smaller than 6 point type for a label 5 square inches or less in area, 10 point type for a label above 5 but no greater than 10 square inches in area, 12 point type for a label above 10 but no greater than 15 square inches in area, 14 point type for a label above 15 but no greater than 30 square inches in area, or 16 point type for a label over 30 square inches in area. The type size of the remainder of the warning statement is no smaller than 6 point type.

(3) All required label text is of sufficient prominence, and is placed with such conspicuousness relative to other label text and graphic material, to ensure that the warning statement is read and understood by the ordinary individual under customary conditions of purchase and use.

(E) A material safety data sheet (MSDS) for the substance including, at a minimum, the language specified in paragraph (a)(3)(i)(D) of this section and the instructions in paragraph (a)(3)(i)(A) and (B) of this section for protective equipment:

(1) Is prepared or obtained by the manufacturer, importer, or processor and made available to employees and contractors at any worksite where the substance is present.

(2) Accompanies any container of the designated substance distributed in commerce or is sent to the recipient prior to shipment.

(ii) Any method of disposal of the designated substance associated with any use other than by:

(A) Incineration (meeting all Federal, State, and local requirements).

(B) Landfill (meeting all Federal, State, and local requirements).

(iii) Any non-industrial use of the substance.

(b) **Specific requirements.** The provisions of Subpart A of this Part apply to this section except as provided in this paragraph.

(1) **Definitions.** In addition to the

definitions in § 720.3, the following definitions apply to this section:

(i) "Non-industrial use" means use by any person other than a manufacturer or processor, as those terms are defined in 40 CFR 720.3(t) and (bb), and any use by any person not conducted on their business premises in the course of or for the direct benefit of manufacturing and processing activities. Transportation, storage, disposal, and other incidental activities directly related to the industrial use of a substance do not constitute non-industrial uses.

(ii) [Reserved].

(2) **Recordkeeping.** In addition to the requirements of § 721.17, manufacturers, importers, and processors of the designated chemical substance must maintain the following records for 5 years from their creation:

(i) Determinations that protective gloves are impervious to the substance.

(ii) Names of persons who have attended safety meetings in accordance with paragraph (a)(3)(i)(C) of this section, the dates of such meetings, and copies of any written information provided in accordance with paragraph (a)(3)(i)(C) of this section.

(iii) The name and address of each person to whom the substance is sold or transferred and the date of such sale or transfer.

(iv) Any names used for the substance and the accompanying dates of use.

(v) Copies of all labels used for the substance.

(vi) Copies of the MSDSs for the substance.

(vii) Information on disposal of the substance, including dates waste material is disposed of, location of disposal sites, volume of any disposed material, estimated volume of any liquid wastes containing the substance, and method of disposal.

(viii) Results of respirator fit tests for each person required to wear a respirator.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

[FR Doc. 86-7477 Filed 4-3-86; 8:45 am]

BILLING CODE 6560-50-M

## NATIONAL FOUNDATION ON ARTS AND HUMANITIES

### 45 CFR Part 1178

#### Missing Children, Use of Penalty Mail in Location and Recovery

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Proposed rule.

**SUMMARY:** This regulation authorizes the National Endowment for the Humanities (NEH) to use penalty mail to assist in the location and recovery of missing children and is required by Pub. L. 99-87 (August 9, 1985), 39 U.S.C. 3220(a) (2).

**DATE:** Comments must be received on or before May 5, 1986.

#### FOR FURTHER INFORMATION CONTACT:

Tracy J. Joselson Esq., National Endowment for the Humanities, Office of the General Counsel, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506, telephone (202) 786-0322.

**SUPPLEMENTARY INFORMATION:** These regulations comply with 39 U.S.C. 3220(a) (2) which requires federal agencies to prescribe regulations under which penalty mail may be used in conformance with guidelines issued by the Department of Justice, Office of Juvenile Justice and Delinquency Prevention pursuant to 39 U.S.C. 3220(a) (1). These guidelines were issued on November 8, 1985 at 50 FR 46622. In accordance with Pub. L. 99-87, these regulations shall cease to be effective two and one-half years after date Pub. L. 99-87 was enacted.

#### Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They do not meet the criteria for major regulations.

#### Regulatory Flexibility Act Certification

I certify that under 5 U.S.C. 605(b) that the proposed rule will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

#### Reporting and Recordkeeping Requirements

These regulations impose no new reporting or recordkeeping requirements that must be cleared by the Office of Management and Budget pursuant to 44 U.S.C. 350 *et seq.*

#### List of Subjects in 45 CFR Part 1178

Administrative practice and procedure.

Dated: April 1, 1986.

John Agresto,

Acting Chairperson.

For the reasons set forth in the preamble, the National Endowment for the Humanities proposes to add the following regulation at 45 CFR Part 1178:



# PART 1178—USE OF PENALTY MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN

Sec.

1178.1 Purpose and scope.

1178.2 Withdrawal of information

Authority: Pub. L. 99-87, 39 U.S.C. 3220(a) (2).

## § 1178.1 Purpose and Scope.

(a) The Chairperson of the National Endowment for the Humanities (NEH) may direct the agency to use penalty mail to assist in the location and recovery of missing children. When determined to be appropriate and cost-effective, the National endowment for the Humanities may print, insert or use any other effective method to affix pictures and biographical data relating to missing children on NEH mail. The contact person for matters related to the implementation of this part is Tracy J. Joselson, Esq., Office of the General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202) 786-0322.

(b) The National Center for Missing and Exploited Children will be the exclusive source from which the National Endowment for the Humanities will obtain photographic and biographical information for dissemination to the public.

(c) It is estimated that the National Endowment for the Humanities will incur no additional costs to implement this program during its initial year. This estimate is based on a review of Endowment mailings that would maximize dissemination of this information.

## § 1178.2 Withdrawal of Information.

(a) The National Endowment for the Humanities will withdraw or exhaust the supply of all materials bearing the photograph and biographical information of a missing child within a three month period from the date the National Center for Missing and Exploited Children receives notice that the child has been recovered or that the parents or guardian of the child have revoked permission to use the information. The National Center for Missing and Exploited Children will be responsible for immediately notifying the agency contact, in writing, of the need to withdraw or remove this material.

[FR Doc. 86-7503 Filed 4-3-86; 8:45 am]

BILLING CODE 7536-01-M

# FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

[MM Docket No. 86-96; RM-4890]

## TV Broadcast Station in Fortuna, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** Action taken herein proposes to assign VHF television Channel 11 to Fortuna, California, as that community's first local television service, in response to a petition filed by Sacramento Valley Television, Inc.

**DATES:** Comments must be filed on or before May 19, 1986, and reply comments on or before June 3, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

## SUPPLEMENTARY INFORMATION:

### List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1962, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

## Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations, [Fortuna, California]; [MM Docket No. 86-96; RM-4890].

Adopted: March 18, 1986.

Released: March 28, 1986.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Sacramento Valley Television, Inc. ("petitioner"), seeking the assignment of VHF television Channel 11 to Fortuna, California, as that community's first local television service. Petitioner indicates that it will apply for the channel, if assigned.

2. Fortuna (population 7,591),<sup>1</sup> in Humboldt County (population 108,514), is located on the California coast, approximately 350 kilometers (220 miles) northwest of San Francisco.

3. VHF television Channel 11 can be assigned to Fortuna consistent with the

minimum distance separation requirements of § 73.610 of the Commission's Rules. Therefore, we believe petitioner's proposal warrants consideration since it could provide a first local television broadcast service to Fortuna. Accordingly, the Commission believes it is appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Fortuna, CA		11

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

**Note:** A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before May 19, 1986, and reply comments on or before June 3, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Christopher J. Reynolds, Esq., Dempsey and Koplovitz, 1401 New York Avenue NW., Suite 630, Washington, DC 20005 (Counsel for Petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on

<sup>1</sup> Population figures were extracted from the 1980 U.S. Census.



the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Ralph A. Haller,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

#### Appendix

1. Pursuant to authority found in Sections 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It Is Proposed To Amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, DC.

[FR Doc. 86-7522 Filed 4-3-86; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 86-98; RM-5188]

#### FM Broadcast Station in Seymour, TN

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** Action taken herein, at the request of William J. Miller, proposes the allotment of Channel 242A to Seymour, Tennessee, as that community's first FM service.

**DATES:** Comments must be filed on or before May 19, 1986, and reply comments on or before June 3, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

#### SUPPLEMENTARY INFORMATION:

##### List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

**Authority:** Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

#### Proposed Rule Making

In the Matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Seymour, Tennessee) MM Docket No. 86-98, RM-5188.

Adopted: March 20, 1986.

Released: March 28, 1986.

By the Chief, Policy and Rules Division:

1. Before the Commission for consideration is a petition for rule making filed by William J. Miller ("petitioner"), requesting the allocation of FM Channel 242A to Seymour, Tennessee, as that community's first FM channel. Petitioner states that he or an entity to which he is a party will apply for the channel, if allotted.

2. Petitioner states that Seymour is a distinctive community of sufficient size and identity to warrant the proposed FM allotment. In this regard petitioner cites the 1980 Census which lists Seymour, in Sevier County, with a population of 370. However, we have been unable to substantiate that Seymour is a community as we did not find it listed in the Census. Pursuant to § 307(b) of the Communications Act of 1934, as amended, the Commission is required to allot broadcast frequencies only to a "community", that is, an identifiable grouping. Generally, if the locality is listed in the U.S. Census, or is incorporated, that fact is sufficient to satisfy its status as a community. In the absence of such recognizable community status, the petitioner is required to provide the Commission with sufficient information to demonstrate that such a place has social, economic or cultural indicia to qualify as a "community" for allotment purposes. See *Ansley, Alabama*, 46 FR 58688, published December 3, 1981; *Cascade Village, Colorado*, 48 FR 19917, published May 3, 1983; and *Gayles, Louisiana*, 48 FR 28495, published June 22, 1983; and cases cited therein.

3. In view of the above, and based on the information submitted by petitioner, the Commission does not have sufficient information for a final determination on the status of Seymour as a community. Therefore, we believe it appropriate to further investigate this matter through the solicitation of comments. Accordingly, petitioner is requested to submit information concerning Seymour as set forth above.



4. Channel 242A can be allotted to Seymour, Tennessee, in compliance with the minimum distance separation requirements of the Commission's Rules, with a site restriction of 3.4 kilometers (2.1 miles) northwest of Seymour. This restriction is necessary to avoid short spacing to Station WDOF-FM, Channel 243 at Chattanooga, Tennessee.

5. In view of the foregoing, the Commission believes it would be in the public interest to seek comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the following community:

City	Channel No.	
	Present	Proposed
Seymour, Tennessee		242A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

7. Interested parties may file comments on or before May 19, 1986, and reply comments on or before June 3, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Timothy K. Brady, Attorney at Law, 1116 Weisgarber Road, P.O. Box 19566, Knoxville, Tennessee 37939-0566.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning

the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communication Commission.

Robert Ratcliffe,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

## Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished to the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interest parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86-7517 Filed 4-3-86; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

[MM Docket No. 86-97; RM-5170]

### TV Broadcast Station in Jellico, TN

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** Action taken herein proposes the assignment of UHF TV Channel 54 to Jellico, Tennessee, as that community's first local television service, at the request of Wayne Marler Crusades, Inc.

**DATES:** Comments must be filed on or before May 19, 1986, and reply comments on or before June 3, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, Mass Media Bureau, (202) 634-6530.



## SUPPLEMENTARY INFORMATION:

## List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

## Notice of Proposed Rule Making

In the Matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Jellico, Tennessee); MM Docket No. 86-97, RM-5170.

Adopted: March 18, 1986.

Released: March 28, 1986.

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration a petition for rule making filed by Wayne Marle Crusades, Inc. ("petitioner"), requesting the assignment of UHF Television Channel 54 to Jellico, Tennessee, as that community's first local television service. Petitioner stated an intention to apply for the channel, if assigned.

2. Jellico (population 2,798)<sup>1</sup> in Campbell County (population 34,923) is located in eastern Tennessee approximately 70 kilometers (45 miles) northwest of Knoxville, Tennessee.

3. The assignment can be made in compliance with the minimum distance separation requirements with a site restriction of 8.5 kilometers (5.3 miles) south of the city. This restriction is necessary in order to avoid short spacing to Station WCVN, Channel 54, Covington, Kentucky.

4. In view of the fact that the proposed assignment could provide a first local television broadcast service to Jellico, the Commission believes it is in the public interest to seek comments on the proposal to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules, for the following community:

City	Channel No.	
	Present	Proposed
Jellico, Tennessee.....		54-

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are

incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 19, 1986, and reply comments on or before June 3, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: B. Jay Baraff, Marc G. H. Giattini, Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street, NW., Suite 203, Washington DC 20036 (Counsel for petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignment, § 73.606(b) of the Commission's Rules. See, *Certification that section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignment. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Ralph A. Haller,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

## Appendix

1. Pursuant to authority found in section 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, It Is Proposed To Amend the TV Table of Assignments, § 73.606(b) of the

Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

<sup>1</sup> Population figures are taken from the 1980 U.S. Census.



5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington DC.

[FR Doc. 86-7518 Filed 4-3-86; 8:45 am]

BILLING CODE 6712-01-M

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## DEPARTMENT OF DEFENSE

### 48 CFR Parts 209 and 252

#### Department of Defense Federal Acquisition Regulation Supplement; Debarment and Suspension

##### *Correction*

In FR Doc. 86-4888 beginning on page 7837 in the issue of Thursday, March 6, 1986, make the following correction: On page 7837, in the second column, in the fourth line, "or other" should read "of other".

BILLING CODE 1505-01-M



# Notices

Federal Register

Vol. 51, No. 65

Friday, April 4, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 86-307]

#### Availability of a Final Environmental Impact Statement on the Rangeland Grasshopper Cooperative Management Program

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This document provides notice that the Final Environmental Impact Statement (FEIS) on the Rangeland Grasshopper Cooperative Management Program, as supplemented 1986, (USDA-APHIS-FEIS-85-02) has been prepared and is available to the public. The FEIS, as amended by the final supplement (FEIS—as supplemented 1986), was sent to the Environmental Protection Agency (EPA) on March 31, 1986, by the U.S. Department of Agriculture (USDA) pursuant to section 102(C) of the National Environmental Policy Act of 1969.

**ADDRESSES:** Request for a copy of the FEIS—as supplemented 1986, should be addressed to: Charles H. Bare, Field Operations Support Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Copies of the final supplement to the FEIS are available by mail except from locations designated by an asterisk.

Copies may be inspected at any of the following locations:

Plant Protection and Quarantine,  
Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302-E,  
Administration Building, 14th &

Independence Avenue, NW.,  
Washington, DC 20250

Plant Protection and Quarantine,  
Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 633, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782

Plant Protection and Quarantine,\*  
Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 7100 West 44th Avenue, Suite 102, Wheat Ridge, CO 80033

Plant Protection and Quarantine,\*  
Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 83 Scripps Drive, Second Floor, Sacramento, CA 95825

Plant Protection and Quarantine,\*  
Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 2100 Boca Chica Boulevard, Suite 400, Brownsville, TX 78521

#### FOR FURTHER INFORMATION CONTACT:

Charles H. Bare, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8295.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Animal and Plant Health Inspection Service of the United States Department of Agriculture published a notice in the *Federal Register* on January 9, 1986 (51 FR 1000-1001) of the availability of a draft supplement to the Final Environmental Impact Statement (FEIS) on the Rangeland Grasshopper Cooperative Management Program, as supplemented 1986. The decision to prepare a supplement to the FEIS was made as a result of an administrative review of the July 1980 final EIS, grasshopper cooperative management program. During the review of the final EIS, new substantive information on issues of concern was identified. A draft supplement entitled, "Rangeland Grasshopper Cooperative Management Program Draft Environmental Impact Statement, as supplemented 1986" was prepared to address these issues. On January 9, 1986, a draft supplement to the FEIS was furnished to the Environmental Protection Agency (EPA). The notice published in the *Federal*

*Register* on January 9 announced the availability of the draft supplement for review, and requested comments on the draft supplement. Comments on the draft supplement were due on March 3, 1986.

All comments received through March 18, 1986, on the draft supplement were considered in the preparation of the final supplement to the FEIS.

The FEIS, as supplemented, considers and discusses the environmental impacts of several management alternatives and the rationale for the preferred alternative. The preferred alternative is integrated pest management, which includes the use of *Nosema locustae*. The FEIS, as supplemented, is intended for the 1986 treatment program only. Before beginning a program in 1987, APHIS will prepare a new programmatic environmental impact statement to assist APHIS officials in making plans and decisions about treatment programs in 1987 and subsequent years. The document will be prepared in accordance with the National Environmental Policy Act and implementing regulations.

The FEIS, as amended by the final supplement, was transmitted to EPA on March 31, 1986.

Copies of the final supplement are available upon request. (See "ADDRESSES")

Done at Washington DC, this 2d day of April 1986.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86-7670 Filed 4-3-86; 8:45 am]

BILLING CODE 3410-34-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Western Pacific Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery



Management Council and the Council's advisory bodies will convene public meetings as follows:

#### Bottomfish/Seamount Groundfish Plan Development Team (PDT)

Will convene April 1, 1986, at 8:30 a.m., at the Council's office, 1164 Bishop Street, Room 1405, Honolulu, HI, to discuss the status of the Bottomfish and Seamount Groundfish Fishery Management Plan (FMP) for the Western Pacific Region; discuss the information and analysis needs for preparing the annual reports; discuss the next phase for preparing an access management proposal for the bottomfish fishery of the Northwestern Hawaiian Islands (NWHI), and discuss other Team business.

#### Crustaceans PDT

Will convene April 2, 1986, at 12:30 p.m., at the Council's office, address as above, to review recommendation of tail width site and language for clearly defining this site for slipper lobsters; review of research for defining minimum tail width for slipper lobsters; the need for management measures for slipper lobsters; review progress of escape vent research; review revision of permit application and data submission forms presently in use, and plan an agenda for the April 29, 1986 public information meeting on spiny lobster management, possible restructuring of the Lobster FMP into a "framework" document.

#### Western Pacific Fishery Management Council

Will convene a public information meeting on lobster management in the NWHI, April 29 at 7 p.m., at the Hawaiian Tuna Packers, Kewalo Basin, Honolulu, HI, to discuss seasonality of reproduction as a basis for a closed season; discuss program for managing slipper lobsters; discuss revision of permit application and data submission forms; discuss progress on escape vent research, as well as discuss limited entry. For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Dated: March 31, 1986.

Richard B. Roe,

Director, Office of Fisheries Management,  
National Marine Fisheries Service.

[FR Doc. 86-7535 filed 4-1-86; 4:59 pm]

BILLING CODE 3510-22-M

#### CONSUMER PRODUCT SAFETY COMMISSION

##### Agency Information Collection Activities; Notification of Request for Approval of Survey of Persons Treated for Injuries at Independent Clinics

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a survey of persons treated for product-related or sports injuries at medical clinics which are not affiliated with hospitals. For several years, hospital emergency rooms have provided the Commission with information about product-related and sports injuries. Information available to the Commission indicates that a growing number of persons now seek treatment for these injuries at independent clinics rather than at hospital emergency rooms. The Commission proposes to test the feasibility of collecting information about product-related and sports injuries from persons treated at independent clinics.

At one group of clinics, persons seeking treatment for product-related or sports injuries will be asked to provide information orally to the staff of the clinic about the product involved in the accident or the circumstances which led to the injury. At another group of clinics, persons seeking treatment for product-related or sports injuries will be asked to complete a written questionnaire which seeks the same type of information.

The Commission will evaluate oral and written responses from persons treated at independent clinics to determine if those facilities are likely to be a significant source of information about product-related and sports injuries.

##### Additional Details About the Requested Approval for Collection of Information

**Agency address:** Consumer Product Safety Commission, 1111 18th Street, NW., Washington, DC 20207.

**Title of information collection:** Pretest of Injury Surveillance Data Collection in Freestanding Ambulatory Care Centers.

**Frequency of collection:** One time.

**General description of respondents:** Persons seeking treatment at independent medical clinics for product-related or sports injuries.

**Estimated number of respondents:** 6,000.

**Estimated number of hours for all respondents:** 1,000.

**Comments:** Comments on this request for approval of a collection of information should be addressed to Andy Velez-Rivera, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395-7340. Copies of the request for approval of a collection of information are available from Francine Shacter, Office of Budget, Program Planning, and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: April 1, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 86-7472 Filed 4-3-86; 8:45 am]

BILLING CODE 6355-01-M

#### DEPARTMENT OF DEFENSE

##### Department of the Army

##### Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Friday, 2 May 1986.

Times of meeting: 0800-1700 hours.

Place: TRADOC Combined Arms Training Activity, Ft Hood, TX.

Agenda: The Army Science Board 1986 Summer Study Panel on C-1 Requirements for AirLand Battle will meet to discuss C-1 activity and Maneuver Control System measures of effectiveness. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-7501 Filed 4-3-86; 8:45 am]

BILLING CODE 3710-08-M



**Army Science Board; Closed Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Thursday and Friday, 24-25 April 1986.

Times of meeting: 0830-1630 hours.

Places: The Pentagon, Washington, DC; and U.S. Army Concepts Analysis Agency, Bethesda, MD.

Agenda: The Army Science Board AHSG on Army Combat Models will meet for briefings by analytic agencies and Army and JCS officials. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-7502 Filed 4-3-86; 8:45 am]

BILLING CODE 3710-06-M

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. EL86-31-000]

**Alamito Shareholders v. Alamito Co.; Complaint**

March 28, 1986.

Take notice that on March 27, 1986, certain of the holders of shares in Alamito Company (Alamito), referring to themselves as Alamito Shareholders (Shareholders), submitted for filing a complaint against Alamito, pursuant to sections 203, 204, 306, and 314(a) of the Federal Power Act (FPA) and the Commission's rules thereunder. The Shareholders request that the Commission find that Alamito is required to obtain authorization under section 204 of the FPA prior to consummation of a proposed leveraged buyout of Alamito by its (3) top management officials by means of mergers with Ventana Generating Subsidiary Company, Inc. and subsequently with Ventana Electric Company.

The Shareholders allege that Alamito has obtained no authorization and

accordingly request the Commission to investigate the matter, and as a result of or pending the outcome of the investigation, request the Commission to seek a stay in Federal District Court in Tucson, Arizona of the proposed merger by March 31, 1986.

Any person desiring to be heard or to protest the complaint should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 7, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7452 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER79-126-012]

**Arizona Public Service Co.; Refund Report**

March 28, 1986.

Take notice that on March 19, 1986, Arizona Public Service Company tendered for filing a Report of Refunds made pursuant to Commission Order issued February 5, 1986.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before April 7, 1986. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7453 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-287-000 et al.]

**Electric Rate and Corporate Regulation Filings; Cambridge Electric Light Co. et al.**

March 28, 1986.

Take notice that the following filings have been made with the Commission:

**1. Cambridge Electric Light Co.**

[Docket No. ER86-287-000]

Take notice that on March 13, 1986 Cambridge Electric Light Company ("Cambridge") tendered for filing certain materials to supplement its initial filing dated February 5, 1986 in the above-captioned docket. Cambridge has requested the Commission to find that such materials are responsive to its Staff's request for information and adequate to cure the deficiency deemed to exist in Cambridge's filing dated February 5, 1986. Cambridge has requested that its rate schedule be allowed into effect as proposed therein on July 1, 1985.

Cambridge states that copies of the supplementary materials which are the subject of this filing have been served upon the Town of Belmont, Massachusetts and upon the Massachusetts Department of Public Utilities.

Comment date: April 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

**2. Commonwealth Edison Co.**

[Docket Nos. ER86-76-001 and ER86-230-001]

Take notice that Commonwealth Edison Company on March 21, 1986 tendered for filing Rate 80 and related Rider 9.

Rate 80 and related Rider 9 provides for service and use of the facilities necessary to enable the City of Geneva, Illinois to take delivery of electricity from electric utility suppliers other than Commonwealth Edison and are filed in compliance with an Order of the Federal Energy Regulatory Commission entered on January 30, 1986 in Docket No. ER86-76-000.

Copies of the rate schedule were served upon the Illinois Commerce Commission, Springfield, Illinois, the Cities of Geneva, Rock Falls, Batavia and Naperville, Illinois and the Illinois Municipal Electric Agency.

Comment date: April 10, 1986, in accordance with Standard Paragraph H at the end of this notice.

**3. Connecticut Municipal Electric Energy Cooperative and Massachusetts Municipal Wholesale Electric Co. v. Power Authority of the State of New York**

[Docket No. EL86-29-000]

Take notice that on March 13, 1986, the Connecticut Municipal Electric Energy Cooperative (CMEEC) and the Massachusetts Municipal Wholesale Electric Company (MMWEC) submitted for filing a complaint against the Power Authority of the State of New York



(PASNY), pursuant to Section 306 of the Federal Power Act, 16 U.S.C. 825e, the Niagara Redevelopment Act (NRA), 16 U.S.C. 836 *et seq.*, and Rule 206 of the Commission's rules of practice and procedure.

CMEEC and MMWEC request that the Commission find that the Vermont Department of Public Service (VDPs) (to whom PASNY allegedly sells power) is not a public body and that PASNY must:

- (i) Cease preference power deliveries to the VDPs to the extent such power is allegedly resold to investor-owned utilities or their customers; and
- (ii) Provide additional preference power to legitimate public bodies in all neighboring states, including Vermont, to compensate for the Power Authority's (and Vermont) prior actions.

*Comment date:* April 28, 1986, in accordance with Standard Paragraph E at the end of this notice.

#### 4. Indiana and Michigan Electric Co.

[Docket No. ER84-590-004 and ER84-591-003]

Take notice that on March 14, 1986, Indiana Electric Company (I&M) tendered for filing a report of refunds made pursuant to the Commission's order on February 13, 1986.

On February 28, 1986, I&M refunded to IMPA and its municipal customers (IMMDA and Auburn) the amounts shown below:

Customer	Total
City of Auburn	\$583.90
Town of Avilla	30.95
City of Bluffton	373.56
City of Columbia City	134.29
City of Garrett	133.33
City of Gas City	282.74
City of Mishawaka	1,242.60
Town of New Carlisle	23.90
Town of Warren	36.64
City of Niles	335.44
City of Sturgis	750.46
City of South Haven	258.84
Town of Municipals	4,166.65
IMPA	4,673.05
Total Refund	8,839.70

*Comment date:* April 11, 1986, in accordance with Standard Paragraph H at the end of this notice.

#### 5. Mississippi Power & Light Co.

[Docket No. ER86-311-000]

Take notice that on February 24, 1986, Mississippi Power & Light Company (MP&L) tendered for filing an Amendment Agreement dated January 15, 1986, between MP&L and Tennessee Valley Authority (TVA). The Amendment Agreement amends the September 1, 1951, Interconnection Agreement between MP&L and TVA, as amended.

The Amendment Agreement provides for the construction of a transmission line linking TVA and Arkansas Power & Light Company and for a substation linking TVA and MP&L. Also, the Amendment Agreement provides that an additional MP&L substation will be constructed and linked to the MP&L-TVA substation by a transmission line. The Amendment Agreement also provides for the modification of three existing delivery point letter agreements between MP&L and TVA, including putting one of the delivery points on the same basis of settlement as exists for the other delivery points. The Amendment Agreement also provides that additional MP&L transmission line at some future date may be tied into the MP&L-TVA substation and that MP&L will provide TVA one additional delivery point upon request. Finally, the Amendment Agreement extends the date of earliest termination of the Interconnection Agreement from November 14, 1980, to June 1, 2003.

MP&L requests an effective date of January 15, 1986, for the Amendment Agreement. MP&L requests waiver of the Commission's notice requirements under Part 35 of the Commission's Regulations.

*Comment date:* April 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

#### 6. Niagara Mohawk Power Corp.

[Docket No. ER86-349-000]

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk), on March 24, 1986, tendered for filing as an initial rate schedule, and agreement between Niagara Mohawk and the Power Authority of the State of New York (PASNY) dated November 27, 1985.

Niagara Mohawk states that this agreement establishes the rate for transmission of hydroelectric power and energy by Niagara Mohawk over its existing transmission facilities from PASNY to the City of Niagara Falls. Pursuant to the letter agreement between Niagara Mohawk and PASNY dated November 27, 1985, PASNY has agreed to compensate Niagara Mohawk for this transmission service at the rate of \$4.41/kW/month in addition to a monthly customer charge of \$467/month.

Copies of this filing were served upon the following:

Power Authority of the State of New York, 10 Columbus Circle, New York, NY 10019

Public Service Commission, State of New York, Three Empire State Plaza, Albany, NY 12223.

Niagara Mohawk requests waiver of the Commission's notice requirements to

as to allow the proposed initial rate schedule to become effective on November 1, 1985.

*Comment date:* April 10, 1986, in accordance with Standard Paragraph E at the end of this document.

#### 7. Oklahoma Gas and Electric Co.

[ER86-346-000]

Take notice that on March 5, 1986, Oklahoma Gas and Electric Company (OG&E) tendered for filing a new Agreement intended to supersede OG&E's Rate Schedule FERC No. 120. This Agreement is the contract between OG&E and the Southwestern Power Administration (SWPA). The new rate is identical to the old rate, and provides for the sale of Replacement Energy and Emergency Service by OG&E to SWPA.

OG&E requests and effective date of January 1, 1986, and therefore requests waiver of the Commission's notice requirements.

*Comment date:* April 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

#### 8. Virginia Electric and Power Co.

[Docket Nos. ER84-355-000, ER84-355-003, and ER84-400-004]

Take notice that on March 21, 1986, Virginia Electric Power Company (VEPCO) tendered for filing a compliance report pursuant to the Commission's letter order dated February 5, 1986.

*Comment date:* April 11, 1986, in accordance with Standard Paragraph H at the end of this notice.

#### Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date.



Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Acting Secretary.

[FR Doc. 86-7497 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C186-279-000]

**Cities Service Oil and Gas Corp.,  
CanadianOxy Offshore Production Co.,  
and Oxy Petroleum, Inc.; Application**

March 28, 1986.

Take notice that on March 21, 1986, Cities Service Oil and Gas Corporation, et al., ("Cities" or "Applicant"), 110 West 7th Street, Tulsa, Oklahoma, 74119, filed an application requesting that the Commission issue an order granting Cities the necessary limited-term blanket authority (1) to abandon temporarily sales for resale of certain gas subject to the Commission's NGA jurisdiction, listed on Exhibit "A" of the application, which is produced by Cities and its joint interest owners, to the extent that such joint interest owners agree to the abandonment and to the extent that the gas is released by Transcontinental Gas Pipe Line Corporation ("Transco"); (2) to make sales for resale in interstate commerce of the gas; and (3) to abandon, pursuant to pre-granted abandonment authority, any sale for resale of the gas. Cities requests the authority described in its application for at least a one (1) year period beginning on April 1, 1986. Cities further requests that the Commission consider the application on an expedited basis in accordance with Order No. 436 issued in Docket No. RM85-1-000.

Cities states that the authority requested in its application will permit Cities to continue to make spot sales of gas at market responsive prices from certain offshore blocks that qualify for the NGPA section 102(d) ceiling price. Cities reports that it is experiencing substantially reduced takes without payment from these blocks.

Any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the Federal Register file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission

will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,  
Acting Secretary.

**EXHIBIT A**

Supply block	Pipeline purchaser	NGPA section
Blocks 668 and 669, Matagorda Island Field, Offshore Texas.	Transco	102(d)
Blocks A-70 and A-133, Brazos Area Field, Offshore Texas.	do	102(d)
Blocks 242 and 243, Eugene Island Field, Offshore Louisiana.	do	102(d)
Blocks A-309, A-313, A-317, A-330, A-339, A-340, A-349, A-474, A-489, A-563, A-564, and A-582, High Island Field, Offshore Texas.	do	102(d)
Blocks 612 and 613, West Cameron Field, Offshore Louisiana.	do	102(d)

[FR Doc. 86-7490 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EF85-2011-003; EF85-2021-003]

**U.S. Department of Energy, Bonneville Power Administration; Filing**

April 2, 1986.

Take notice that on April 2, 1986, the United States Department of Energy, Bonneville Power Administration (BPA), supplemented its initial submission in the above-captioned dockets by tendering for filing a proposed modification to its NF-85 nonfirm energy rate. The proposal follows the conclusion of BPA proceedings under section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i), to reopen the record of its 1985 general rate proceeding. BPA states it competes with oil- and gas-fired generation to supply the bulk energy requirements of utilities in California. The proposed modification is designed to keep BPA's nonfirm rates competitive in the face of rapidly declining gas and oil prices. Under the proposal, BPA would have the pricing flexibility to charge any price between 7 mills/kwh and 23.4 mills/kwh, depending on market conditions. BPA states that its proposed rate is necessary to prevent a revenue underrecovery that could prevent it from satisfying its statutory obligation to repay the U.S. Treasury.

Asserting that time is of the essence, BPA requests waiver of all pertinent regulations so that the revised rates may be approved, on an interim or final basis, by April 16, 1986.

Any person desiring to be heard or to protest this filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Acting Secretary.

[FR Doc. 86-7659 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C186-267-000]

**Howell Gas Management Co.;  
Application for Certificates of Public  
Convenience and Necessity, for an  
Order Permitting and Approving  
Limited-Term Abandonment and  
Pregranted Abandonment, and for  
Expedited Consideration**

March 28, 1986.

Take Notice that on March 19, 1986, Howell Gas Management Company (Howell), pursuant to Sections 4 and 7 of the Natural Gas Act, and Part 157 and section 2.77 of the Commission rules and regulations, applied for a blanket certificate of public convenience and necessity authorizing:

(A) with respect to gas subject to a maximum lawful price ("MLP") above the Natural Gas Policy Act (NGPA) Section 109 MLP—(i) the limited term abandonment of certain sales of natural gas by various producers; (ii) the sale for resale of natural gas in interstate commerce by such producers; (iii) pregranted abandonment of such sales for resale; (iv) the sale for resale of natural gas in interstate commerce by Howell; and (v) pregranted abandonment of such sales for resale; and (B) with respect to natural gas subject to an MLP at or below the NGPA Section 109 MLP—(i) sales for resale of natural gas in interstate commerce by Howell and certain producers from whom Howell purchases natural gas



who have received abandonment approval from the Commission in a separate proceeding; and (ii) pregranted abandonment of such sales for resale; and (C) transportation of the subject volumes, under section 7(c) of the NGA, for interstate pipelines, intrastate pipelines, Hinshaw pipelines, and local distribution companies, all as more fully set forth in said Application which is on file with the Commission and open for public inspection.

Howell requests that such authority, it is asserted, be granted for at least a five year period, commencing on the date of the order approving the authority requested herein.

If granted, the authorization applied for herein will enable Howell to make sales for resale in interstate commerce of supplies of natural gas released to producer-suppliers by various pipeline purchasers and sold to Howell for resale, supplies of natural gas for which abandonment authority has been obtained by producer-suppliers through appropriate abandonment proceedings at the Commission and subsequently sold to Howell for resale, and supplies of NGPA section 102(d) gas (15 U.S.C. § 3312(d)) not contractually committed to an interstate pipeline. These supplies will be sold by Howell at market-clearing prices, but not in excess of the applicable NGPA MLP, or the applicable contract price, whichever is lower. The authority applied for herein will also enable Howell, and producer-suppliers selling gas to Howell, and agents acting on their behalf, to make sales for resale in interstate commerce of the gas supplies released and abandoned to any and all customers having the ability to purchase such gas on the open market, and to have such gas transported to such customers on a self-implementing basis.

Howell is requesting this authority in furtherance of Commission policies expressed in the Commission's final rule issued in *Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Docket No. RM85-1-000 (issued Oct. 9, 1985) (Order No. 436), and the Commission's recent decisions in *Felmont Oil Corporation and Essex Offshore, Inc.*, Opinion 245, 33 F.E.R.C. (CCH) ¶ 61,333 (1985) and *Pennzoil Producing Company and Pennzoil Gas Marketing Company*, Docket Nos. CI86-54-000 and CI86-57-000 (March 5, 1986).

Any person desiring to be heard or to make any protests with reference to said Application should on or before April 15, 1986, file with the Federal Energy Regulatory Commission, Washington, DC, 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules

of Practice and Procedure (18 CFR § 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing herein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7491 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL86-24-000]

**Municipal Electric Utilities Association of New York State, Complainant v. Power Authority of the State of New York, Respondent; Complaint**

March 28, 1986.

Take notice that on February 18, 1986, the Municipal Electric Utilities Association (MEUA) submitted for filing a complaint and motion for summary disposition against the Power Authority of the State of New York (PASNY), pursuant to section 306 of the Federal Power Act (FPA), 16 U.S.C. section 825e, and rule 206 of the Commission's rules of practice and procedure, 18 CFR 325.206.

MEUA alleges that PASNY has violated the Niagara Redevelopment Act (NRA) and its license to the Niagara Project No. 2216, by not allocating to MEUA the full amount of low cost preference power to which MEUA believes it is entitled. MEUA filed an amendment to this complaint on March 18, 1986 in order to eliminate its request for punitive damages.

MEUA is an organization composed of forty-seven municipally-owned electric utilities in New York. MEUA alleges that each of its members is qualified to receive preference hydroelectric power under the NRA, 16 U.S.C. 836 *et seq.* In 1984, after extended proceedings at the Commission, the United States Court of Appeals for the Second Circuit held that PASNY is required to sell preference customers in New York additional preference power and calculated what that amount should be until 1989. *PASNY v. FERC*, 743 F.2d 93 (2d Cir. 1984). MEUA alleges in this complaint that its members are the only entities that are entitled to this relief. Thus, according to MEUA, PASNY has violated the NRA and its license by

making that preference power available to municipal distribution agencies (MDA's), which MEUA contends do not fall within the definition of "public bodies" in the NRA, as clarified by the Commission's Opinion No. 229-A, 32 FERC ¶ 61,194 (1985), *appeals pending*, *Metropolitan Transportation Authority, et al. v. FERC*, 2d Cir. Nos. 85-4115, *et al.* In addition to requesting that the Commission find these allocations illegal, MEUA seeks an order reallocating to its members 39 MW of the Niagara Project's preference power immediately, directing PASNY to increase the amount sold to MEUA incrementally until it reaches a maximum of 697.53 MW in 1989, and requiring PASNY to compensate MEUA members for the difference between the price they have paid PASNY for power since July 1, 1985 and the amount they would have paid had PASNY been selling them this preference power since then.

PASNY answered MEUA's original complaint on March 18, 1986, asserted affirmative defenses, and requested that the Commission deny MEUA's motion for summary disposition and dismiss the complaint.

Copies of the complaints filed by MEUA and PASNY's answer are available in the Division of Public Information, Federal Energy Regulatory Commission, Room 9000, 825 North Capitol Street, NE., Washington, DC 20426.

**Comments, Protests, or Motions to Intervene**—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before April 28, 1986.

The Village of Ilion, New York, Orange and Rockland Utilities Inc., and the New York State Electric & Gas Corporation have already been placed on the official service list because they filed timely motions to intervene before the issuance of this notice. On March 21, 1986, PASNY filed an answer in opposition to the Village of Ilion, New York's motion to intervene.

**Filing and Service of Responsive Documents**—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the



docket number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. A copy must also be served upon each person on the official service list pursuant to Rule 2010, 18 CFR 385.2010.

Lois D. Cashell,  
Acting Secretary.

[FR Doc. 86-7492 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C186-270-000]

**Pelto Oil Co.; Application for Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Limited-Term Abandonment and Pre-Granted Abandonment**

March 28, 1986.

Take notice that on March 19, 1986, Pelto Oil Company, (hereinafter referred to as Pelto) filed an Application pursuant to sections 4 and 7 of the Natural Gas Act (NGA), the provisions of 18 CFR Parts 154 and 157, and 18 CFR § 2.77(a)(1), seeking (i) a certificate of public convenience and necessity authorizing the sale for resale in interstate commerce of certain natural gas produced by Pelto and its joint interest owners in offshore Louisiana, and (ii) limited-term abandonment and pre-granted permanent abandonment of certain sales as described therein, to effectuate the sale and purchase of gas on the spot market, as more fully described in the Application which is on file with the Commission and open for public inspection. Alternatively, Pelto requests that the Commission extend as to Pelto the blanket certificate and abandonment authority provided in *Tenneco Oil Company, et al.*, 33 FERC (CCH) ¶ 61,134 (1985). The term of the authorizations requested by Pelto is four years. Pelto also requests that said authorizations be made effective on or before April 1, 1986.

Pelto states that the authority as requested is consistent with the Commission's rules and regulations and is necessary for Pelto to continue making short-term and spot gas sales. Further, Pelto states that, absent said authorization, the flexibility and efficiency necessary for successful operation in the spot market would be hindered.

Specifically, Pelto requests that the Commission authorize Pelto, effective on or before April 1, 1986:

(i) To make sales for resale in interstate commerce for a period of four years, without supply or market limitations, of gas subject to the Commission's NGA jurisdiction that is produced from various interests owned by Pelto;

(ii) To make sales for resale in interstate commerce for a period of four years, without supply or market limitations, of gas subject to the Commission's NGA jurisdiction, produced from various interests attributable to other owners having interests in the same wells as Pelto, to the extent that such joint interest owners agree to same;

(iii) To abandon for a four-year term sales for resale of gas subject to the Commission's NGA jurisdiction and previously certificated by the Commission, to the extent that such gas is released by interstate pipelines for resale in the spot market to third parties; and

(iv) To abandon permanently (pre-granted abandonment) any sale for resale in the spot market authorized pursuant to Pelto's small producer certificate or any blanket certificate issued herein.

Sales proposed to be made by Pelto on behalf of itself and its joint interest owners will not involve a dedication of reserves but will be based on periodic nominations, either by purchasers or by Pelto. The sales volumes, prices, purchasers, delivery points, transporter, and supply source will vary. Pelto proposes to sell and deliver to various short-term and spot gas purchasers all or a portion of the gas Pelto determines is available for sale at terms acceptable to Pelto for a particular month. Pelto will not be obligated to sell gas pursuant to any nomination or proposed nomination until the exact volumes, terms and conditions, and prices are agreed to by Pelto and a purchaser. The actual contract between Pelto and the short-term and spot gas purchaser may be for all or any portion of the quantity which was set out in the nomination or proposed nomination. All contracts entered into by Pelto and the short-term and spot gas purchaser will be subordinate to the requirements of Pelto's current pipeline purchasers.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 15, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it

in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,  
Acting Secretary.

[FR Doc. 86-7493 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C186-281-000]

**Producer-Suppliers of Transcontinental Gas Pipe Line Corporation and Transco Gas Supply Co.; Application**

March 28, 1986.

Take notice that on March 21, 1986, Transcontinental Gas Pipe Line Corporation ("Transco") and Transco Gas Supply Company ("Gasco") (herein together referred to as "Applicant"), both at P.O. Box 1396, Houston, Texas 77251, filed in this proceeding an application pursuant to Sections 4 and 7 of the Natural Gas Act ("NGA") and Parts 154 and 157 of the Commission's regulations. The application requests on behalf of producer-suppliers currently selling gas to Applicants pursuant to certificates of public convenience and necessity an order (1) authorizing the blanket limited-term abandonment by Transco's producer-suppliers of certain sales for resale of natural gas in interstate commerce, (2) issuing a blanket limited-term certificate of public convenience and necessity authorizing the sale for resale of such natural gas in interstate commerce, and (3) authorizing blanket pre-granted abandonment of any sales for resale of natural gas made under the requested certificate. Applicants also request on behalf of those producer-suppliers waiver of certain Commission regulations including those in Parts 154 and 271 of the Commission's regulations.

Applicants request that the authorizations sought in this proceeding be considered on an expedited basis, to be made effective as soon as possible, but in no event later than April 1, 1986.

Applicants state that market demand for Transco's system supply has fallen dramatically in recent weeks, and that the authorizations requested in this proceeding are urgently needed (1) to avoid or mitigate a disastrous situation



involving Applicants' producer-suppliers who produce certificated gas which has been treated by Transco as "protected" volumes (gas which includes casinghead gas, gas subject to drainage protection, gas purchased to prevent well or reservoir damage, gas produced from marginal wells and other gas which Transco has determined requires protection), and (2) to avoid shutting in other producer-suppliers' certificated gas which is currently being purchased by Applicants at very low take levels. Any or all of the gas which is currently committed to Applicants under contract with producer-suppliers and subject to the Commission's Natural Gas Act jurisdiction would be covered by the authorizations sought in this proceeding, to the extent such gas is released by Applicants. Applicants request that the authorizations sought in the instant Application extend to all categories and vintage of jurisdictional gas, except NGPA § 104, § 106 and § 109 gas.

Any person desiring to be heard or to make any protests with reference to said application should on or before April 14, 1986 file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 86-7494 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C186-7-001]

**Seagull Marketing Services, Inc.; Request of Seagull Marketing Services, Inc. for Extension of Blanket Certificate Authority and for Clarification**

March 28, 1986.

Take notice that on March 20, 1986, Seagull Marketing Services, Inc. ("Seagull Marketing"), pursuant to sections 4 and 7 of the Natural Gas Act and Part 157 of the Commission's regulations, filed a request for the

Commission to extend the blanket certificate authority granted to it in Docket No. C186-7-000 on October 29, 1985. In addition, Seagull Marketing requested that the Commission clarify that the blanket limited-term abandonment ("LTA") authorization granted therein applies to producers from which Seagull Marketing would purchase the gas, regardless of whether the producer itself applied for and was granted blanket LTA authority. In the alternative, Seagull Marketing requested that its affiliate, Seagull Energy E&P, Inc., be included in the authorization granted to Seagull Marketing.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 14, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 86-7495 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C185-673-001]

**UER Marketing Co.; Petition of UER Marketing Co., for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Pre-Granted Abandonment**

March 28, 1986.

Take notice that on March 20, 1986, UER Marketing Company pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717-717z (1982) (NGA) and Part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR Part 157 (1984), applied for a one (1)-year extension of the limited-term sales and abandonment authority granted in this proceeding. UER Marketing states that such an extension is in the public interest as it will allow the continuation of benefits provided by UER Marketing's ability to market NGA gas on the spot market.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 14, 1986 file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 86-7496 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

**Hydroelectric Application Filed With the Commission**

April 1, 1986.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. Type of Application: Transfer of License (Minor).

b. Project No.: 4357-005.

c. Date Filed: February 10, 1986.

d. Applicants: Tuscarora Yarns, Inc. and Clifton Hydropower Limited Partnership.

e. Name of Project: Clifton No. 2 Hydroelectric Project.

f. Location: On the Pacolet River in Spartanburg County, South Carolina.

g. Filed Pursuant to: Section 9 of the Federal Power Act.

h. Contact Person: Mr. Charles B. Mierek, Clifton Hydropower Limited Partnership, Route 2, Box 302A, Spartanburg, SC 29302, (803) 579-4405.

i. Comment Date: April 28, 1986.

j. Description of Project: On September 28, 1984, a minor license was issued to the Tuscarora Yarns, Inc. to construct, operate and maintain the Clifton No. 2 Hydroelectric Project No. 4357. Tuscarora Yarns, Inc. intends to sell the project to Clifton Hydropower Limited Partnership, a limited partnership qualified to do business in the State of South Carolina. For that reason, Tuscarora Yarns, Inc. has filed a request that the project license be



transferred to Clifton Hydropower Limited Partnership.

k. This notice also consists of the following standard paragraphs: B.

l. Filing and Service of Responsive Documents: Any filings must bear in all capital letters the title "COMMENTS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the Project Number of this application. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Fred E. Springer, Director, Division of Project Management, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 203 RB at the above address. A copy of any motion to intervene must also be served upon the representative of the Applicant specified herein.

**B. Comments, Protests, or Motions to Intervene**—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Lois D. Cashell,  
Acting Secretary.

[FR Doc. 86-7498 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9656-000 et al.]

#### Hydroelectric Applications (Marble Creek Hydro, Inc., et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Preliminary Permit.

b. Project No.: 9656-000.

c. Date Filed: December 2, 1985.

d. Applicant: Marble Creek Hydro, Inc.

e. Name of Project: Marble Creek.

f. Location: In St. Joe National Forest, on Marble Creek in Shoshone County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: James R. Morris, P.O. Box 1016, Lewiston, ID 83501.

i. Comment Date: May 27, 1986.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion weir at elevation 1,560 feet; (2) a 4,150-foot-long, 84-inch-diameter steel conduit; (3) a powerhouse containing two generators with a combined capacity of 3.95 MW and an average generation of 17,301 MWh; and (4) a 1.8-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of \$385,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

2 a. Type of Application: Amendment of License.

b. Project No. 4796-013.

c. Date Filed: October 22, 1985.

d. Applicant: Niagara Mohawk Power Corporation and Glen Park Associates.

e. Name of Project: Glen Park.

f. Location: Black River in Jefferson County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person:

Mr. Michael Tucker, Glen Park Associates, 330 Broadway, Albany, NY 12207, (518) 434-1311

Mr. John W. Keib, Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202, (315) 474-1511.

i. Comment Date: May 2, 1986.

j. Description of Project: The project as licensed consists of: (a) A 270-foot-long and 7-foot-high concrete gravity-type overflow dam having a crest elevation of 350 feet U.S.G.S. datum; (b) a 57-foot-long concrete abutment wall at the left (south) bank and a 140-foot-long gated intake and sluice structure at the right (north) bank; (c) a reservoir having a surface area of 9.8 acres and a usable storage capacity of 9.4 acre-feet; (d) a 3,500-foot-long, 19-foot-deep and 38-foot-wide intake canal; (e) two underground 13-foot-diameter, 90-foot-long steel penstocks; (f) a concrete and steel powerhouse containing two generating

units having a total rated capacity of 15,490 kW; (g) a short tailrace; (h) a switchyard; (i) a 1.12-mile-long, 115-kV transmission line; and (j) appurtenant facilities.

The Applicant proposes to amend the license by: (a) installing a 3,650-kW release turbine at the dam and intake; and (b) installing at the existing powerhouse a second identical generating unit with a rated capacity of 14.5 MW, bringing the total installed capacity of the project to 32.65 MW. The Applicant estimates a 131.2 million kWh average annual energy production.

k. Purpose of Project: Project power would be utilized by the Applicant.

l. This notice also consists of the following standard paragraphs: B and D1.

3 a. Type of Application: License Amendment for (new capacity).

b. Project No.: 2655-001.

c. Date Filed: September 9, 1985.

d. Applicant: Fieldcrest Mills, Inc.

e. Name of Project: Eagle and Phenix Mills.

f. Location: Chattahoochee River, Muscogee County, Georgia and Russell County, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Evander H. Rowell, Manager, Environmental Engineering, Fieldcrest Mills, Inc., 326 East Stadium Drive, Eden, NC 27288, (919) 627-3195.

i. Comment Date: May 5, 1986.

j. Description of Project: The license for the Eagle and Phenix Mills Project was issued on September 12, 1978, for a term expiring December 31, 1993. The existing project facilities consist of: (1) A reservoir with a surface area of 45 acres and a storage capacity of approximately 255 acre-feet; (2) a rock and masonry dam, 900 feet long and 17 feet high; (3) two powerhouses containing a total of 9 generating units with a total capacity of 4,260 kW; and (4) appurtenant facilities.

The Licensee proposes to construct: (1) A new forebay, 145 feet long and 85 feet wide; (2) a new powerhouse containing two generating units with a total capacity of 24,400 kW; (3) a new tailrace, approximately 100 feet long and 85 feet wide; (4) a new 115-kV transmission line, approximately ½ mile in length; and (5) appurtenant facilities. The Licensee also proposes to replace an existing generating unit with a new unit of 1,800 kW capacity, and to repair and raise the project dam and related structures by 1.5 feet. The estimated additional average annual generation of 91,200 MWh would be sold to Georgia Power Company. The Licensee also



requests that the present license term be extended to February 28, 2009.

k. This notice also consists of the following standard paragraphs: B and C.

4 a. Type of Application: Amendment of a Major License.

b. Project No.: 2086-002.

c. Date Filed: September 20, 1985.

d. Applicant: Southern California Edison Company.

e. Name of Project: Vermilion Valley Reservoir.

f. Location: On Mono Creek, a tributary to the South Fork San Joaquin River, within Sierra National Forest, in Fresno County, California (T61/2S, R27E, T7S, R27E; T7S, R26E; and T8S, R26E; M.D.M.&B.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person:

Mr. John R. Bury, Vice President & General Counsel, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, CA 91770

Mr. Larry W. Johnson, Project Manager, Southern California Edison Company, P.O. Box 800, Rosemead, CA 91770.

i. Comment Date: May 5, 1986.

j. Description of Project: The proposed project would utilize the flows of the Applicant's existing Vermilion Valley Dam and consist of: (1) Two fishwater turbine-generator units housed in an existing valve house located at the toe of the dam and having a combined rated capacity of 270 kW; (2) a 6-foot-diameter, 4,170-foot-long penstock; (3) a powerhouse containing a single turbine-generator unit with a rated capacity of 7,500 kW; and (4) a 33-kV, 14.1-mile-long transmission line interconnecting the project to the applicant's existing Portal Powerhouse Switchyard (FERC Project No. 2174). The power generated from this project would be used to supplement the power of the Applicant's existing system.

k. This notice also consists of the following standard paragraphs: B and C.

5 a. Type of Application: Minor License.

b. Project No.: 9734-000.

c. Date Filed: December 27, 1985.

d. Applicant: Trans Mountain Construction Company.

e. Name of Project: Keystone.

f. Location: Keystone Creek, near Dillon, in Summit County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Herbert C. Young, 123 S. Paradise Road, Golden, CO 80401, (303) 526-9296.

i. Comment Date: May 27, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A diversion structure constructed

with boulders 2 to 3 feet in diameter; (2) a 17-foot-wide, 24-foot-long, 12-foot-high powerhouse containing 3 impulse turbine generator units rated at 7.5, 15, and 44 kW, for a total capacity of 77.5 kW, operating under a head of 200 feet and a hydraulic capacity of 6 cfs, and producing an estimated average annual generation of 0.2 GWh; (3) a 16-inch-diameter, 5,500-foot-long penstock; (4) a steel pipe tailrace discharging to Keystone Creek; and (5) a 600-foot-long, 480-volt tap transmission line interconnecting the project to an existing 25-kV Public Service Company of Colorado line. No new access roads are proposed. The project would be located entirely on Arapahoe National Forest lands in Section 36, T5S, R77W, 6th P.M.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

6 a. Type of Application: Minor License.

b. Project No.: 9839-000.

c. Date Filed: December 31, 1985.

d. Applicant: Conejos Water Conservancy District and PRODEK, INC.

e. Name of Project: Platoro Dam.

f. Location: Platoro Dam, on the Conejos River, near Platoro, in Conejos County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person:

Mr. Flake H. Wells, III, PRODEK, INC., 3314 E. 51st Street, Suite B, Tulsa, OK 74135, (918) 749-7749.

Mr. Kelly Sowards, Conejos Water Conservancy District, P.O. Box 40, Manassa, CO 81141, (303) 843-5261.

i. Comment Date: May 27, 1986.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's (USBR) Platoro Dam, which impounds a reservoir with a surface area of 948 acres at normal maximum water surface elevation of 10,034 feet msl. and would consist of: (1) A 24-inch-diameter welded steel saddle installed in the existing 56-inch-diameter reservoir outlet pipe located inside the outlet tunnel, upstream from the existing valve house; (2) a 24-inch-diameter, 160-foot-long ductile iron penstock; (3) a 16 feet by 17 feet concrete powerhouse located adjacent to the low level outlet valve house containing a single Francis turbine-generator unit with a rated capacity of 225 kW and producing an estimated average annual generation of 1.235 GWh; (4) a 30-inch-diameter, 70-foot-long concrete pipe tailrace discharging water to the Conejos River; and (5) a 100-foot-long, 14.4-kV transmission line interconnecting the

project to an existing Public Service Company of Colorado (PSCC) line.

The project would utilize water releases at the Platoro Dam without alteration of the normal scheduled pattern or quantity of releases as ordered by the USBR and by the Conejos Water Conservancy District. Applicant intends to sell project power to PSCC and estimates project cost at \$325,000.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

7 a. Type of Application: License (Minor).

b. Project No.: 9634-000.

c. Date Filed: November 20, 1985.

d. Applicant: Colorado River Commission of the State of Nevada.

e. Name of Project: Las Vegas Wash Hydro Project.

f. Location: Las Vegas Wash in Clark County, Nevada; Mount Diablo Meridian, Nevada T.21S., R.63E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Jack Stonehocker, Director, Colorado River Commission, 1515 East Tropicana, Suite 400, Las Vegas, NV 89109.

i. Comment Date: May 5, 1986.

j. Competing Application: Project No. 8344, Date Filed: June 7, 1985. Due Date: March 31, 1986.

k. Description of Project: The proposed project would be located primarily on privately owned lands with a small segment of the transmission line located on U.S. Bureau of Reclamation lands, and would consist of: (1) A diversion/intake structure within Las Vegas Wash; (2) a steel penstock, six feet in diameter and 10,900 feet long; (3) a powerhouse with an installed capacity of 1,500 kW operating under a head of 130 feet; (4) a tailrace returning flow to the Wash; (5) a 4.16 kV transmission line, three miles long, connecting to a Nevada Power Company line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 6,833,000 kWh in 1990, increasing to 15,768,000 kWh in the year 2036 because of anticipated increase of flows from sewage treatment plants into the wash.

l. Purpose of Project: Project energy will be utilized by the Applicant.

m. This notice also consists of the following standard paragraphs: A4, B, C, and D1.

7 a. Type of Application: Major License (over 5MW).

b. Project No.: 6842-001.

c. Date Filed: June 7, 1985.



d. Applicant: City of Aberdeen, Washington and City of Tacoma, Washington.

e. Name of Project: Wynoochee Dam.

f. Location: On Wynoochee River in Grays Harbor County, Washington near the town of Grisdale, at the existing Corps of Engineers (COE) Wynoochee Dam, within the Olympic National Forest, T22N R7W Sections 19, 20, and 30; T22N R8W Sections 25, 35, and 36; T21N R8W Sections 2, 10, 11, 15, 18, 19, 20, 21, and 22; T21N R9W Sections 13, 14, 19, 20, 21, 22, 23, and 30; T21N R10W Sections 25, 26, and 35.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person:

Mr. Rudy Balgaroo, Liaison Officer, City of Aberdeen, 200 E. Market, Aberdeen, Washington 98520, (206) 533-4100;

Mr. Donald J. Caha, Power Manager, City of Tacoma, Department of Public Utilities, P.O. Box 11007, Tacoma, WA 98411, (206) 383-2471; and

Mr. Albert Liou, Project Manager, Hosey & Associates Engineering Company, 2820 Northrup Way, Suite 190, Bellevue, WA 98004 (206) 827-8661.

i. Comment Date: May 27, 1986.

j. Description of Project: The proposed project would consist of: (1) An 83-foot-high concrete tower intake structure at elevation 722 feet, 16 feet upstream of the existing Wynoochee Dam having two 12-foot-wide intake portals, the upper portal opening between elevation 770 and elevation 800 feet and the lower portal opening between elevation 722 and elevation 737 feet and trashracks upstream of each portal; (2) a 4-foot-wide walkway connecting the proposed intake structure and the existing dam; (3) a 1,080-foot-long underground concrete and steel lined power tunnel with a diameter varying from 11 feet to 10 feet; (4) a 92-foot-long, 48-foot-wide, 22-foot-high reinforced concrete powerhouse, located 800 feet downstream of the existing dam, containing two generating units (unit 1 and unit 2) with a total rated capacity of 10,800 kW, producing an estimated average annual energy output of 42.14 GWh, and butterfly valves above each turbine to allow complete shutoff capability; (5) flows from unit 1 would discharge from the draft tube through a concrete channel of rectangular section directly into the Wynoochee River, and flows from unit 2 would discharge from the draft tube into a box-shaped structure discharging into the Wynoochee River until the COE fish hatchery is constructed, then flows would discharge directly into the hatchery; (6) a switchyard; (7) a 20-mile-

long, 69/115-kV overhead transmission line tying into an existing Grays Harbor PUD line along highway 101, which feeds the Promised Land Substation; (8) a parking area on the northwest side of the powerhouse; and (9) a 1,500-foot-long access road to the powerhouse.

k. Purpose of Project: Project power will be distributed to the City of Tacoma's Light Division consumers and consumed by the City of Aberdeen Water System.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 9804-000.

c. Date Filed: December 30, 1985.

d. Applicant: Arktech, Inc.

e. Name of Project: George I.

f. Location: In Targhee National Forest, on Henrys Fork in Fremont County, Idaho, Township 11N and Range 42E.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Michael Arkoosh, P.O. Box 93, Gooding, ID 83330, (208) 934-8464.

i. Comment Date: May 5, 1986.

j. Competing Application: Project No. 9662. Date Filed: 12-3-85.

k. Description of Project: The proposed project would consist of: (1) A headgate on the river bank at elevation 6,060 feet; (2) a 1.25-mile-long canal; (3) a 700-foot-long, 96-inch-diameter penstock; (4) a powerhouse containing a generating unit with a capacity of 2,649 kW and an average annual generation of 15,807 MWh; and (5) a 1.7-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare a FERC license application at a cost of \$96,500. No new roads would be constructed or drilling conducted during the feasibility study.

l. Purpose of Project: Project power would be sold.

m. This notice also consists of the following standard paragraphs: A8, B, C and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 9698-000.

c. Date Filed: December 19, 1985.

d. Applicants: A. Albert Alperstein and Ralph Siegel.

e. Name of Project: Kite Property Hydroelectric Station.

f. Location: On the South Fork of the Shenandoah River near the town of Shenandoah, Page County, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Ralph Siegel c/o Powercon Corporation, P.O. Box 477, Severn, MD 21144, (301) 569-6500.

i. Comment Date: May 27, 1986.

j. Description of Project: The proposed project would consist of: (1) A new reinforced-concrete dam approximately 12 feet high and 310 feet long; (2) a new 102-acre reservoir having a storage capacity of 410 acre-feet at an elevation of 875.9 feet NGVD; (3) an existing penstock 700 feet long and 20 feet in diameter leading to; (4) a new concrete powerhouse approximately 22 feet by 55 feet containing two turbine/generator units having a total installed capacity of 2,000 kW operating at 15 feet of hydraulic head; (5) a new 600-foot-long 4-kV transmission line; and (6) appurtenant facilities. The Applicant estimates the average annual energy production to be 8,897,000 kWh. The property where the proposed facilities will be located is owned by A. Albert Alperstein.

k. Purpose of Project: The Applicants intend to sell the power generated at the proposed facility to the Virginia Power Company.

l. This notice consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be \$113,900 to \$168,900.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 9890-000.

c. Date Filed: January 31, 1985.

d. Applicant: Arktech, Inc.

e. Name of Project: Upper and Lower Mesa Falls.

f. Location: In Targhee National Forest, on Henrys Fork, in Fremont County, Idaho, Township 10N, Range 43E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Persons: Michael Arkoosh, P.O. Box 93, Gooding, ID 83330, (208) 934-8464.

i. Comment Date: May 27, 1986.



j. Description of Project: The proposed project would consist of two developments.

A. The Upper Development comprising: (1) A 350-foot-long, 6-foot-high concrete diversion structure with crest elevation 5606 m.s.l.; (2) a reservoir extending less than 800 feet upstream; (3) an intake structure; (4) two underground 8-foot-diameter, 230-foot-long penstock; (5) a powerhouse containing two generating units having a total rated capacity of 8,000 kW; (6) a 3,000-foot-long, 115-kV transmission line; and (7) appurtenant facilities. Applicant estimates that the average annual energy output would be 63,100,000 kWh.

B. The Lower Development comprising: (1) A 280-foot-long, 6-foot-high concrete diversion structure with crest elevation 5,426 m.s.l.; (2) a reservoir extending less than 800 feet upstream; (3) an intake structure; (4) two underground 8-foot-diameter, 400-foot-long penstocks; (5) a powerhouse containing two generating units having a total rated capacity of 4,500 kW; (6) a 1,500-foot-long, 115-kV transmission line; and (7) appurtenant facilities. Applicant estimates that the average annual energy output would be 35,500,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of \$75,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to local utilities or Cooperatives, or the Bonneville Power Administration.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

12 a. Type of Application: Preliminary Permit.

b. Project No: 9860-000.

c. Date Filed: December 30, 1985.

d. Applicant: Kennebec Water Power Company and the East Outlet Hydroelectric Limited Partnership.

e. Name of Project: East Outlet Water Power Project.

f. Location: at the East Outlet of Moosehead Lake on the Kennebec River in Somerset and Piscataquis Counties, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person:

Charles E. Monty, Kennebec Water Power Co., P.O. Box 103, 8 Water

Street, Waterville, ME 04901, (207) 872-6624

Christian A. Herter, III, East Outlet Hydroelectric, Limited Partnership, 121 Middle Street, Portland, ME 04101, (207) 774-6400

i. Comment Date: May 27, 1986.

j. Description of Project: The Applicant proposes to develop currently unutilized capacity at the Moosehead Lake Outlet Dams Project, licensed as Project No. 2671 to the Kennebec Log Driving Company and the Kennebec Water Power Company (Licensee). The license consists of: (1) The existing East Outlet Dam; (2) the existing West Outlet Dam; (3) the existing reservoir (Moosehead Lake); and (4) appurtenant facilities. No generating units were licensed as part of Project No. 2671.

The proposed East Outlet Dam Water Power Project would consist of: (1) 3 intake structures for the proposed 3 turbine-generator units; (2) 3 self contained powerhouses for the proposed generating units; (3) 3 generating units with a total installed generating capacity 1,140 kW; (4) a proposed 7.5-mile-long, 34.5 kV transmission line; and (5) appurtenant facilities.

The Applicant estimates the average annual energy generation to be 5.35 GWh and intends to market the energy produced to the Central Maine Power Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction.

Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be \$50,000.

13 a. Type of Application: Minor License.

b. Project No.: 7447-002.

c. Date Filed: August 30, 1985, supplemented January 16, 1986.

d. Applicant: Commercial Energy Management, Inc.

e. Name of Project: Portneuf River Hydroelectric.

f. Location: On the Portneuf River in Bannock County, Idaho, in Section 22, Township 9 South, Range 38 East of the Boise Meridian.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Robert Bird, Commercial Energy Management, Inc., 175 La Belle Drive, Rigby, ID 83442, (208) 745-7625.

i. Comment Date: May 27, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 40-foot-long, 4-foot-high reinforced concrete diversion dam with a crest elevation of 5089.4 feet and a gated penstock intake; (2) a 1,350-foot-long, 72-inch-diameter steel penstock; (3) a 25-foot by 57-foot reinforced concrete powerhouse containing three generating units rated at 107 kW, 214 kW, and 423 kW at an average head of 49.2 feet and a total hydraulic capacity of 210 cfs, and discharging into the Portneuf River at a normal tailwater elevation of 5035 feet; and (4) a 0.5-mile-long, 12.5-kV transmission line connecting to a Utah Power and Light Company distribution line.

k. Purpose of Project: Project energy would be sold to Utah Power and Light Company. Applicant estimates that the average annual energy generation would be 4.1 GWh and that the total project cost would be \$1,080,000.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

14 a. Type of Application: Application for License (5 MW or less).

b. Project No: 9685-000.

c. Date Filed: December 16, 1985.

d. Applicant: Trafalgar Power, Inc.

e. Name of Project: Cranberry Lake.

f. Location: On the Oswegatchie River near Clifton, St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person:

Mr. Arthur H. Steckler, Trafalgar Power, Inc., Smith and Canal Streets, Franklin, NH 03035, (603) 934-4202 or, (514) 273-8891.

Mr. Neal F. Dunlevy, Stetson-Dale, Architects & Engineers, 185 Genesee Street, Utica, NY 13501, (315) 797-5800.

i. Comment Date: May 30, 1986.

j. Description of Project: The project would consist of: (1) An existing dam approximately 195 feet long and 19 feet high; (2) an existing reservoir with a surface area of 7,040 acres and a storage capacity of 57,400 acre-feet at a surface elevation of 1,487 NGVD; (3) rehabilitation of the dam, which is being done by the Oswegatchie River—Cranberry Reservoir Regulating District Corporation; (4) a proposed power channel 23 feet long and 14 feet high; (5) a proposed reinforced concrete powerhouse 70 feet long by 18 feet wide housing a 595 kW generator; (6) a



proposed tailrace; (7) a proposed 4.8-kV transmission line, 54 feet long; (8) and appurtenant facilities. The Applicant estimates that the average annual energy generation would be 2.4 GWh. The project energy would be sold to the Niagara Mohawk Power Corporation. The dam is owned by the Oswegatchie River—Cranberry Reservoir Regulating District Corporation.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

15 a. Type of Application: Amendment of License.

b. Project No.: 7266-007.

c. Date Filed: October 31, 1985.

d. Applicant: Colorado Hydro-Power Corporation.

e. Name of Project: Taylor Park Dam Hydropower Project-Transmission Line.

f. Location: Taylor River, near Gunnison, in Gunnison County, Colorado.

g. Filed Pursuant to: Article 47 of Order Issuing Major License 27 FERC ¶ 62,104, May 2, 1984.

h. Contact Person: Mr. John G. Lincoln, Colorado Hydro-Power Corp., c/o National Hydro Corp., 77 Franklin Street, Boston, MA 02110, (617) 357-9029.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would consist of upgrading of an existing 21-mile-long, 14.4-kV single phase transmission line (t/1) to a 24.9-kV 3-phase t/1. The existing t/1 consists of a 15-mile-long underground section within Taylor Canyon from Spring Creek to Taylor Park Dam and a 6-mile-long overhead section from Jack's Cabin to Spring Creek along Forest Service Route 833.

A new 15-mile-long, 24.9-kV 3-phase t/1 would be constructed parallel to the existing underground line beginning at the point of connection of the Taylor Park Hydroelectric Dam Project's 15-foot-long, 24.9-kV line to the overhead line. The existing underground line would remain in service to supply existing demand. The overhead portion of the existing line would be reconstructed by adding a crossarm with conductors to existing poles. Existing phase service along this section would be served off of one of the phases of the new line. The overhead line would terminate at the point of connection with the Skito-Crested Butte 24.9-kV tie line. The existing line is owned by the Gunnison County Electric Association. The project is located in T14S and T15S, R83W, R84W and R85W, 6th BM. The project would affect Gunnison National Forest lands.

k. This notice also consists of the following standard paragraphs: B and D2.

1. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS," "PROTESTS" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

16 a. Type of Application: Exemption (5 MW).

b. Project No.: 9718-000.

c. Date Filed: December 24, 1985.

d. Applicant: Loree Nelson.

e. Name of Project: South Fork Deep Creek.

f. Location: On the South Fork Deep Creek in Sec. 31 and 32, T3S, R10E, near Livingston in Park County, Montana.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Roger Kirk, Hydrodynamics, Inc., P.O. Box 413, Red Lodge, MT 59068, (406) 446-2203.

i. Comment Date: May 7, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) A canal leading from an existing natural pond to a concrete or natural rock intake structure with trash screening; (2) a 2,700-foot pipeline; (3) a powerhouse containing one generating unit with a rated capacity of 140 kW and; (4) approximately 1.75 miles of transmission line. The average annual output would be 0.7 GWh. The estimated cost of the project is \$320,000.

*Purpose of Exemption:* An exemption, if issued, gives an Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. Purpose of Project: Project power would be sold.

1. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3a.

17 a. Type of Application: Major License (under 5MW).

b. Project No.: 6524-005.

c. Date Filed: November 15, 1984.

d. Applicant: Hy-Tech Company.

e. Name of Project: Elk Creek Falls.

f. Location: On Elk Creek in Clearwater County, Idaho near the town of Elk River within the Clearwater National Forest. Section 11 T39N R2E; Section 14 T39N R2E.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person:

Mr. Richard A. Sigismonti, Hy-Tech Company, P.O. Box 1305, Lewiston, ID 83501, (208) 746-8147 and

Ms. Ilene B. Garland, Hoseney and Associates Engineering Company, 2820 Northrup Way, Suite 190, Bellevue WA 98004.

i. Comment Date: June 2, 1986.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 30-foot-long concrete diversion weir spanning Elk Creek diverting flows to; (2) a 20-foot-high concrete intake structure with a crest length of 128 feet at elevation 2,680 feet having fish screens, a trashrack and a fish bypass pipe; (3) a 48-inch-diameter, 5,068-foot-long penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 4,320 kW, producing an estimated average annual energy output of 18,985 MWh; (5) a 50-foot-long riprap lined tailrace channel discharging project flows into Deep Creek; (6) a 4-mile-long, 24-kV buried and overhead transmission line tying into an existing Washington Water Power Company's line; (7) approximately 5,000 feet of access road to the diversion structure; (8) approximately 3,000 feet of access road to the powerhouse; and (9) a switchyard. The estimated cost of the project is \$5,036,000 in 1986 dollars.

This application has been accepted for filing as of October 1, 1982, the submittal date of the Applicant's originally accepted exemption application pursuant to Eagle Power Co. et al., 28 FERC ¶ 61,061, issued July 18, 1984.

k. Purpose of Project: Project power would be sold to Washington Water Power Company.

1. This notice also consists of the following standard paragraphs: A9, B, C and D1.

18 a. Type of Application: Conduit Exemption.

b. Project No.: 9625-000.

c. Date Filed: November 18, 1985.

d. Applicant: Mr. Bruce McDowell.

e. Name of Project: Mohawk Power Project No. 1.

f. Location: On the pipe conduit which is part of a private water distribution system that obtains water from an



unnamed tributary to Sulfur Creek, near Clio, in Plumas County, California (In Section 36 of T22N, R12E, M.D.B.&M.).

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Mr. Bruce McDowell, Frontier Land and Power, P.O. Box 131, Taylorsville, CA 95983, (916) 284-7532.

i. Comment Date: May 9, 1986.

j. Description of Project: The proposed project would utilize an existing diversion structure, a redwood water tank, and a 12-inch-diameter steel pipe conduit. The proposed project would consist of a powerhouse containing an impulse turbine and an induction generator with a rated capacity of 100 kW, operating under a head of 350 feet. A 12-kV, 4800-foot-long transmission line would interconnect the project to an existing Plumas Sierra Rural Electrification Cooperative line that is tied into a Pacific Gas and Electric Company (PG&E) line. The project's estimated average annual generation of 788.4 MWh would be sold to PG&E.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

19 a. Type of Application: Major License (Under 5MW).

b. Project No.: 9887-000.

c. Date Filed: January 27, 1986.

d. Applicant: Northern Colorado Water Conservancy District (NCWCD).

e. Name of Project: Horsetooth Reservoir, Horsetooth Dam No. 1 Outlet Works.

f. Location: On Horsetooth Reservoir and Charles Hansen Supply Canal, near Fort Collins, in Larimer County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person:

Mr. Larry D. Simpson, Manager, NCWCD, P.O. Box 679, Loveland, CO 80539, (301) 667-2437.

Thomas P. Humphrey, Esq., Davis, Graham & Stubbs, 1001 Twenty-Second Street, NW, Suite 500, Washington, DC 20037, (202) 822-8660.

i. Comment Date: May 28, 1986.

j. Description of Project: The proposed project would utilize the existing outlet works at the U.S. Bureau of Reclamation's (USBR) 150-foot-high, 1,840-foot-long Horsetooth Dam No. 1 and would consist of: (1) A 72-inch-diameter, 525-foot-long buried steel penstock connected to the existing outlet pipe located immediately upstream from the existing valve house; (2) a 69-foot-long, 44-foot-wide concrete powerhouse containing a single Francis turbine-generator unit with a rated capacity of 3.1 MW, operating under a

head of 131 feet and a hydraulic capacity of 360 cfs, and producing an estimated average annual generation of 4.3 GWh; (3) provisions, within the powerhouse, for a future second Francis turbine-generator unit with a rated capacity of 1.2 MW, operating under a hydraulic capacity of 143 cfs, and producing an estimated average annual generation of 1.1 GWh; (4) a tailrace discharging to the existing Charles Hansen Supply Canal which conveys flows to the Cache la Poudre River and the Windsor Extension; and (5) a 300-foot-long, 13.8-kV transmission line interconnecting the project to an existing 1-mile-long Public Service Company of Colorado line which would be upgraded from 2 phase to 3 phase. The applicant would operate the project from April through October using irrigation flows. The Horsetooth Reservoir and the Charles Hansen Supply Canal are components of the USBR's Colorado-Big Thompson (CBT) trans-mountain diversion project. The valve house and canal are operated by NCWCD.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

20 a. Type of Application: Preliminary Permit.

b. Project No.: 9658-000.

c. Date Filed: December 3, 1985.

d. Applicants: Belton Lake Hydro Partners.

e. Name of Project: Belton Dam.

f. Location: On the Leon River near Temple, Bell County, Texas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Louis Rosenman, 1333 New Hampshire Ave., NW., Washington, DC 20036, (202) 457-7500.

i. Comment Date: May 28, 1986.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Belton Dam and reservoir and would consist of: (1) A proposed steel penstock, 10 feet in diameter by 550 feet long; (2) a proposed concrete powerhouse, 50 feet by 150 feet, housing a 16,000-kW generator; (3) a proposed concrete tailrace, 25 feet wide, 10 feet deep, and 80 feet long; (4) a proposed 64-kV transmission line, 2,500 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 26.9 GWh. The project energy would be sold Texas Power and Light.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

l. *Proposed Scope under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the

proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$145,000.

21 a. Type of Application: Major License (less than 5 MW).

b. Project No.: 6765-002.

c. Date Filed: November 15, 1984.

d. Applicants: BMB Enterprises, Inc.

e. Name of Project: Manti Creek Water Power Project.

f. Location: On Manti Creek in Sanpete County, Utah, and the Manti-LaSal National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Bradley F. Hutchings, 315 South 160 West, Centerville, UT 84014.

i. Comment Date: June 2, 1985.

j. Description of Project: The proposed project would consist of: (1) Two cross-channel concrete diversion structures, one on North Fork Manti Creek and the other on South Fork of Manti Creek with both at elevation 7,800 feet m.s.l., each being 2½ feet high with overflow intakes and provisions for trashracks, gates and sluiceways; (2) two buried steel pipeline penstocks, one 24 inches in diameter (North Fork) and 18,500 feet long and the other 18 inches in diameter (South Fork), and 1,280 feet long to its junction with the North Fork penstock at elevation 7,720 feet m.s.l.; (3) a powerhouse containing a turbine-generator unit operating under a gross head of 1,360 feet and having a rated capacity of 3,150 kW; (4) a tailrace returning flow to Manti Creek; (5) an 8,000-foot-long, 46-kV transmission line, interconnecting with Utah Power and Light Company's existing line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 9,526,000 kWh. Project energy would be sold to Utah Power and Light Company.

k. This application has been accepted for filing as of October 12, 1982, the submittal date of the Applicant's originally accepted exemption application pursuant to Eagle Power Co., 28 FERC ¶61,061, issued July 18, 1984.

l. This notice also consists of the following standard paragraphs: B, C, and D1.



22 a. Type of Application: Preliminary Permit.

b. Project No.: 9750-000.

c. Date Filed: December 27, 1985.

d. Applicants: Taft Hydropower, Inc.

e. Name of Project: Whitney Point Hydro Project.

f. Location: On the Otselic River near Triangle, Broome and Cortland Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Lawrence R. Taft, 10315 Caughdenoy Rd., Central Square, NY 13036, (315) 437-2547.

i. Comment Date: May 28, 1986.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers' Whitney Point Flood Control Dam and reservoir and would consist of: (1) An existing inlet structure; (2) an existing penstock 15 feet in diameter that is 1,500 feet long; (3) a proposed penstock 15 feet in diameter by 30 feet long; (4) a proposed reinforced concrete powerhouse 40 feet long, 20 feet wide, and 30 feet high housing a 1,300 kW generator; (5) a proposed tailrace 15 feet wide, 10 feet deep, and 100 feet long; (6) a proposed 13.4 kV transmission line 4,000 feet long; and (7) appurtenant facilities. The applicant estimates that the average annual energy generation would be 4.9 GWh. The project energy would be sold to New York State Electric and Gas Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$25,000.

23 a. Type of Application: Preliminary Permit.

b. Project No.: 9591-000.

c. Date Filed: November 1, 1985.

d. Applicants: Little Miami River Associates.

e. Name of Project: East Fork.

f. Location: East Fork of the Little Miami River, Clermont County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Louis Rosenman, 1333 New Hampshire Ave., NW., Washington, DC 20036.

i. Comment Date: May 9, 1986.

j. Competing Application: Project No. 9578-000. Date Filed: November 1, 1985. Due Date: May 23, 1986.

k. Description of Project: The proposed project would make use of the existing East Fork Dam, owned and operated by the U.S. Army Corps of Engineers, and would consist of: (1) A proposed concrete powerhouse 100 feet long and 100 feet high; (2) a proposed turbine/generator of 8 MW capacity; (3) a proposed concrete tailrace 250 feet long, 15 feet deep, and 20 feet wide; (4) a proposed 64 kV transmission line 250 feet in length; and (5) appurtenant facilities.

The estimated annual energy production is 42 million kWh. The net hydraulic head is 85 feet. Project power would be sold to Alleghany Power System.

l. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$145,000.

m. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

24 a. Type of Application: Preliminary Permit.

b. Project No.: 9830-000.

c. Date Filed: December 31, 1985.

d. Applicants: Village of Paw Paw, Michigan.

e. Name of Project: Paw Paw Dam.

f. Location: On the Paw Paw River near Paw Paw, Van Buren County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Charles Alsberg, North American Hydro, Inc., P.O. Box 167, Neshkoro, WI 54960, (414) 293-4628.

i. Comment Date: June 2, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing earth and concrete dam 27 feet high and 685 feet long; (2) an existing 273-acre reservoir with a storage capacity of 2,546 acre-feet at a surface elevation of 717 msl; (3) an existing intake structure;

(4) an existing powerhouse 30 feet wide and 35 feet long housing an existing 250-kW generator; (5) and existing tailrace; (6) a proposed 2.4-kV transmission line 30 feet long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 600 MWh. The project energy would be used by the Department of Public Utilities for the Village of Paw Paw. The dam is owned by the Village of Paw Paw.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$15,000.

25 a. Type of Application: Preliminary Permit.

b. Project No.: 9919-000.

c. Date Filed: February 20, 1986.

d. Applicant: Union Water Power Company and Bristol Hydroelectric Limited Partnership.

e. Name of Project: Middle Dam.

f. Location: Richardson Lake and Rapid River, Oxford County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Marc A. Auth, Swift River/Hafslund Company, 10 Harbor Street, Danvers, MA 01923, (617) 777-7040.

i. Comment Date: May 30, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete crib gravity dam 21 feet high and 250 feet long; (2) an existing impoundment 8150 acres in surface area with a storage capacity of 149,238 acre-feet at a normal maximum surface elevation of 1448 feet mean sea level; (3) a proposed concrete intake structure approximately one mile north of the existing dam; (4) a proposed tunnel 17 feet in diameter and 16,000 feet long, to be lined with steel penstock for approximately 400 feet; (5) a proposed reinforced concrete powerhouse below grade surmounted by a wood frame building; (6) two proposed turbine/generators of 10 MW capacity each; (7) an excavated tailrace; (8) a proposed



34.5-kV transmission line 3 miles long; and (9) appurtenant facilities.

The estimated annual energy production is 78,000,000 kWh. The hydraulic head is 200 feet. Project power would be sold to Public Service Company of New Hampshire. The dam is owned by Union Water Power Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$340,000.

26 a. Type of Application: Preliminary Permit.

b. Project No.: 9678-000.  
c. Date Filed: December 12, 1985.  
d. Applicant: Marseilles Hydro Partners.  
e. Marseilles No. 2 Lock and Dam.  
f. Location: On the Illinois River near Marseilles, La Salle County, Illinois.  
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).  
h. Contact Person: Mr. Mitchell L. Dong, Mitex, Inc., 91 Newbury Street, Boston, MA 02116, (617) 424-1888.

i. Comment Date: May 7, 1986.  
j. Competing Application: Project No. 9532-000. Date Filed: October 9, 1985. Competing Due Date: March 27, 1986.

k. Description of Project: The proposed project would utilize the existing US Army Corps of Engineers' Marseilles Lock and Dam, and reservoir and would consist of: (1) A proposed intake canal; (2) a proposed submerged powerhouse 180 feet long, 94 feet wide, and 84 feet high housing two 12,000-kW bulb type turbines for a total capacity of 24,000 kW; (3) a proposed tailrace 300 feet long; (4) a proposed 69-kV transmission line two miles long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 97 GWh. The project energy would be sold to Illinois Power Company.

l. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued,

does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$100,000.

27 a. Type of Application: Preliminary Permit.

b. Project No.: 9861-000.  
c. Date Filed: January 3, 1986.  
d. Applicant: Karen Associates.  
e. Name of Project: Anderson Creek.  
f. Location: In Mt. Baker—Snoqualmie National Forest, on Anderson Creek, in Whatcom County, Washington Township 37N, Range 9E.  
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).  
h. Contact Person: Thomas B. Forbes, P.O. Box 421, Mercer Island, WA 98040, (206) 232-6538.

i. Comment Date: May 28, 1986.  
j. Description of Project: The proposed project would consist of: (1) A 10-foot-high diversion dam at elevation 2110 feet; (2) a 2100-foot-long, 28-inch-diameter penstock; (3) a 10-foot-diameter, 10-foot-high surge tank; (4) a 3,000-foot-long, 24-inch-diameter penstock; (5) a power house containing a generating unit with a capacity of 3,800 kW and an average annual generation of 13,190 MWh; and (6) a 200-foot-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of \$100,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

#### Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent

allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development



application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

**A9. Notice of Intent—**A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed; either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

**B. Comments, Protests, or Motions to Intervene—**Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

**C. Filing and Service of Responsive Documents—**Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

**D1. Agency Comments—**Federal, State and local agencies that receive this notice through direct mailing from

the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time sent for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**D2. Agency Comments—**Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**D3a. Agency Comments—**The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**D3b. Agency Comments—**The U.S. Fish and Wildlife Service and the State

Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: April 1, 1986.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7488 Filed 4-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9672-000 et al.]

#### Hydroelectric Applications, (Bellows-Tower Hydro, Inc., et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

- Type of Application: License (5 MW or less).
- Project No: 9672-000.
- Date Filed: December 3, 1985.
- Applicant: Bellows-Tower Hydro, Inc.
- Name of Project: St. Regis Falls.
- Location: St. Regis River in Franklin County, New York.
- Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).
- Contact Person: Mr. Frank O. Christie, 15 Saranac Avenue, Lake Placid, NY 12946, (518) 523-2824.
- Comment Date: June 6, 1986.
- Description of Project: The proposed project would consist of: (1) A proposed 12-foot-high, 12-foot-long intake approximately 100 feet upstream of St.



Regis Falls; (2) a proposed 220-foot-long, 78-inch-diameter penstock; (3) a proposed powerhouse containing a generating unit with a rated capacity of 650-kW at elevation 1,188 feet msl; and (4) a proposed 350-foot-long transmission line tying into the existing Niagara Mohawk Power Corporation system. The Applicant estimates a 3,000,000 kWh average energy production.

k. Purpose of Project: Power would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

a. Type of Application: Exemption.

b. Project No.: 9551-000.

c. Date Filed: October 23, 1985.

d. Applicant: United States Power Corporation.

e. Name of Project: Piggy Back Water Power Generator.

f. Location: On the Delaware River in Northampton and Warren Counties, in the States of Pennsylvania and New Jersey.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: B. Ryland Wiggs, Suite 207, 2285 Schoenerville Road, Bethlehem, PA 18017.

i. Comment Date: May 12, 1986.

j. Description of Project: The proposed project would not utilize any dam, proposed dam or impoundment. The plan for development is to utilize a floating vessel outfitted with an experimental paddle-wheel generating device. The device would generate electricity through the utilization of the river current on it. The generating vessel would be anchored to the river bottom in a fashion that would allow for a 40-foot fluctuation in river levels. The paddle wheel should not exceed 3 feet in depth and 7 feet in length. A submarine cable would connect the 60-kW (maximum) paddle wheel generator unit to the on-shore local utility pole. The project would generate up to 350,400 kWh annually.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3a.

l. Purpose of Project: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

3 a. Type of Application: Minor License (Constructed).

b. Project No.: 9842-000.

c. Date Filed: December 31, 1985.

d. Applicant: Ray F. Ward.

e. Name of Project: Ward Mill Dam.

f. Location: On the Watauga River near Boone, Watauga County, North Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. James T. Grissom, 5504 Chapel Hill Boulevard, Durham, NC 27707, (919) 489-2668.

i. Comment Date: June 9, 1986.

j. Description of Project: The existing project consists of: (1) A rock and concrete dam 20 feet high by 130 feet long; (2) a 4.6-acre reservoir with 16.3 acre-feet of storage capacity at a surface elevation of 2,608 NGVD; (3) a penstock 5 feet wide, 7½ feet high, and 14 feet long; (4) a powerhouse 14 feet long, 8 feet wide, and 23 feet high housing a 75-kW generator and a 93-kW generator for a total capacity of 168 kW; (5) a 225-kVA three phase transmission line 45 feet long; and (6) appurtenant facilities. The project is fully constructed but has not operated since July 22, 1985. The Applicant estimates that the average annual energy generation would be 493 MWh. The project energy would be sold to Blue Ridge Electric Membership Corporation.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

4 a. Type of Application: License (5MW or less).

b. Project No.: 6897-001.

c. Date Filed: June 10, 1985, and supplemented November 6, 1985.

d. Applicant: Energos Management, Inc.

e. Name of Project: Carters Reregulation Dam Project.

f. Location: On the Coosawattee River near Calhoun, Murray County, Georgia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. George Welborn, President, Energos Management, Inc., 561 Glen Eagles Circle, Marietta, GA 30067, (404) 955-1373.

i. Comment Date: June 6, 1986.

j. Description of Project: The proposed run-of-river project would utilize the existing U.S. Army Corps of Engineers' Carters Reregulation Dam and Reservoir, and would consist of: (1) A proposed intake structure located adjacent to the dam; (2) a 60-foot-long and 110-inch-in-diameter steel penstock; (3) a new powerhouse to be located on the left bank and housing one 3.5-MW generator; (4) a proposed tailrace channel; (5) a new 12-kV transmission line approximately .5-mile-long; and (6) appurtenant facilities. The Applicant estimates that the average annual generation would be 16.5 GWh. Project

energy would be sold to Georgia Power Company. The Applicant is the permittee for Project No. 6897.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 9702-000.

c. Date Filed: December 20, 1985.

d. Applicant: Kenny Creek Hydroelectric Co.

e. Name of Project: Kenny (Mullen) Creek.

f. Location: On Kenny (Mullen) Creek, in Whatcom County, Washington Township 39 N, Range 5 E.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Daniel A. New, 5346 Mosquito Lake Road, Deming, WA 98244, (206) 592-5552.

i. Comment Date: June 4, 1986.

j. Description of Project: The project would consist of replacing the existing 25-kW turbine/generator with a 40-kW turbine/generator and adding a 600-foot-long transmission line. The average annual generation would be 300 MWh. Other existing features include a diversion dam at elevation 995 feet; a 2,000-foot-long, 8-inch-diameter pipeline; and a powerhouse.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare a FERC license application or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to Puget Sound Power & Light.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

6 a. Type of Application: License.

b. Project No.: 9042-000

c. Date Filed: March 22, 1985.

d. Applicant: Gallia Hydro Partners.

e. Name of Project: Gallipolis Locks and Dam.

f. Location: On the Ohio River in Gallia County, Ohio.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Michael G. LaRow, Project Manager, Mitex, Inc., 91 Newbury Street, Boston, MA 02116, (617) 424-1888.

i. Comment Date: June 4, 1986.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Gallipolis Locks and Dam and would consist of: (1) A proposed powerhouse which will contain an installed generating capacity



of 48 MW; (2) a proposed 3-mile-long, 69-kV transmission line; (3) a proposed 130-foot-long, 20-foot-wide paved access road; and (4) appurtenant facilities. The Applicant estimates that the average annual energy generation will be 231 GWh.

k. Purpose of Project: It is the intent of the Applicant to sell the electric power produced to the Allegheny Electric System.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

7 a. Type of Application: Preliminary Permit.

b. Project No.: 9901-000.

c. Date Filed: February 3, 1986.

d. Applicant: Laquidara, Inc.

e. Name of Project: Saugerties.

f. Location: Esopus Creek in the Village of Saugerties, Ulster County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Robert A. MacDowell, Laquidara, Inc., 97 Pleasant Street, P.O. Box 264, Ballston Spa, NY 12020, (518) 885-8931.

i. Comment Date: June 6, 1986.

j. Description of Project: Applicant proposes to redevelop a formerly operative mill site by evaluating two development alternatives. Either plan would utilize: (1) The existing 346-foot-long, 32-foot-high concrete gravity dam which is owned by Houseboat Realty Company; and (2) the existing 140 acre surface area reservoir. The alternatives differ as follows:

Alternative 1 would have the powerhouse located 125 feet downstream of the same and would consist of: (1) The replacement of the existing 72-inch-diameter, 134-foot-long steel penstock with a new 12-foot-diameter, 134-foot-long, concrete pipe; (2) a proposed powerhouse containing one turbine/generator unit with an installed capacity of 2,500 kW, operating under a head of 40 feet; (3) a proposed 480-volt, 4,000-foot-long transmission line; (4) a proposed tailrace; and (5) appurtenant facilities. The estimated average annual energy would be 13,500 MWh.

Alternative 2 would have the powerhouse located 3,000 feet downstream of the dam and would consist of: (1) The existing, 150-foot-long by-pass channel; (2) a proposed 12-foot-diameter, 1,100-foot-long, concrete penstock; (3) a proposed powerhouse containing one turbine/generator unit with an installed capacity of 3,500 kW, operating under a head of 65 feet; (4) a proposed 480-volt, 1,600-foot-long transmission line; (5) a proposed tailrace; and (6) appurtenant facilities.

The estimated average annual energy would be 19,000 MWh.

k. Purpose of Project: Project energy would be sold to Central Hudson Gas and Electric Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction.

Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be \$65,000.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 9906-000.

c. Date Filed: February 10, 1986.

d. Applicant: South Fork Irrigation District, California.

e. Name of Project: West Valley Pumped Storage.

f. Location: On West Valley and Tule Reservoirs, near Likely, within lands administered by the U.S. Bureau of Land Management, in Lassen and Modoc Counties, California (In Sections 29, 30, 31, and 32 T39N, R14E and Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, and 30 of T38N, R14E, M.D.B.&M.)

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Dana W. Hall, P.E., Chief Executive Officer, Thompson Associates, P.O. Box 4316, Redding, CA 96099, (916) 222-2278.

i. Comment Date: June 2, 1986.

j. Description of Project: The proposed project would utilize the existing West Valley Reservoir with a surface area of 1,030 acres and a maximum storage capacity of 22,240 acre-feet and the Tule Reservoir with a surface area of 4,000 acres and a storage capacity of 75,000 acre-feet. The proposed project would consist of: (1) Five 16-inch-diameter conduits connecting the Tule Lake intake works to the adjacent intake control building; (2) conveyance facilities between the Tule and West Valley reservoirs which include (a) a 35-foot-diameter, 8,000-foot-long tunnel, (b) dual 20-foot-diameter, 16,000-foot-long buried low pressure conduits, and (c) five 14-foot-diameter, 4,000-foot-long penstocks; (3) a powerhouse containing five turbine-generator units with a combined rated capacity of 250 MW, operating under a head of 720 feet; and

(4) 230-kV transmission line facilities.

The project's estimated annual generation of 750 GWh would be sold to one or more utilities. The West Valley Dam is owned and operated by the Applicant.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be \$40,000,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

9 a. Type of Application: Conduit Exemption.

b. Project No.: 9888-000.

c. Date Filed: January 23, 1986.

d. Applicant: Olivenhain Municipal Water District.

e. Name of Project: Roger Miller Reservoir.

f. Location: On a pipeline between the Olivenhain Municipal Water District's Gaty and Roger Miller Reservoirs (receiving its water from the San Diego County Water Authority's Second Aqueduct and the Colorado River), near Encinitas in San Diego County, California (Section 4 of T13S, R2W, S.B.M. & B.).

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Mr. William Hollingsworth, Manager, Mr. David C. McCollom, Assistant Manager, Olivenhain Municipal Water District, 1966 Olivenhain Road, Encinitas, CA 92024, (619) 753-6466.

i. Comment Date: May 19, 1986.

j. Description of Project: The proposed project would consist of 60 feet of tie-in piping and valves, a powerhouse containing station controls and a single turbine-generator with a rated capacity of 425 kW operating under a head of 270 feet. A 1.2-kV, 100-foot-long transmission line would interconnect the project to an existing San Diego Gas and Electric Company distribution line. The project's estimated average annual generation of 0.7 GWh would be sold to San Diego Gas and Electric Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 9848-000.



c. Date Filed: December 31, 1985.

d. Applicant: Maria Hydro Corporation.

e. Name of Project: Marble Rock Mill Dam.

f. Location: On Shell Rock River near Marble Rock, Floyd County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Thomas J. Wilkinson, Jr., Maria Hydro Corporation, 630 Higley Building, Cedar Rapids, IA 51401, (319) 366-4990.

i. Comment Date: June 5, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam 15 feet high and 160 feet long; (2) an existing 55-acre reservoir with a storage capacity of 250 acre-feet at a surface elevation of 545 msl; (3) a proposed concrete block powerhouse 26 feet by 30 feet housing a 658 kW generator; (4) a proposed 13.8 kV transmission line 50 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 3.6 GWh. The project energy would be sold to Interstate Power Company. The dam is owned by the city of Marble Rock, Iowa.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$12,000.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 9807-000.

c. Date Filed: December 30, 1985.

d. Applicant: Rockfish Corporation, Inc.

e. Name of Project: Brookneal Dam Hydroelectric Project.

f. Location: On the Falling River in the town of Brookneal, Campbell County, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. John K. Pollock, Rockfish Corporation, Inc., Rt. 1 Box 413, Afton, VA 22920, (703) 456-6519.

i. Comment Date: June 9, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing

Brookneal Dam approximately 200 feet long and 10 feet high; (2) an existing 2-acre reservoir having a storage capacity of 5 acre-feet at an elevation of 397 feet msl; (3) a new wooden shed approximately 10 feet by 15 feet containing a single turbine/generator unit having an installed capacity of 150 kW operating at 10 feet of hydraulic head; and (4) appurtenant facilities. An existing 12.5-kV transmission line is available adjacent to the site. The Applicant estimates that the average annual generation would be 1,000,000 kWh. The project dam is owned by Burlington Industries.

k. Purpose of Project: The Applicant intends to sell the power generated at the proposed facility to the Virginia Electric & Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be \$15,000.

12. a. Type of Application: Preliminary Permit.

b. Project No.: 9850-000.

c. Date Filed: December 31, 1985.

d. Applicant: Rutia Hydro Corporation.

e. Name of Project: Rutland Mill Dam.

f. Location: On the West Fork, Des Moines River near Rutland, Humboldt County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Thomas J. Wilkinson, Jr., Rutia Hydro Corporation, 630 Higley Building, Cedar Rapids, IA 51401, (319) 366-4990.

i. Comment Date: June 6, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam 13 feet high and 260 feet long; (2) an existing 80-acre reservoir with a storage capacity of 350 acre-feet at a surface elevation of 1,090 msl; (3) an existing brick powerhouse 35 feet by 60 feet housing a proposed 700-kW generator; (4) a proposed 24-kV transmission line 200 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 3.5 GWh. The project energy would be sold to the

local utility. The dam is owned by the Humboldt County Conservation Board, Dakota City, Iowa.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$12,000.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 9862-000.

c. Date Filed: January 3, 1986.

d. Applicant: Mitia Hydro Corporation.

e. Name of Project: Mitchell Mill Dam.

f. Location: On Cedar River near Mitchell, Mitchell County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Thomas J. Wilkinson, Jr., Mitia Hydro Corporation, 630 Higley Building, Cedar Rapids, IA 51401, (319) 366-4990.

i. Comment Date: June 6, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam 20 feet high and 195 feet long; (2) an existing 120-acre reservoir with a storage capacity of 500 acre-feet at a surface elevation of 1,095 msl; (3) an existing stone masonry powerhouse 30 feet by 50 feet housing a proposed 510-kW generator; (4) a proposed 13.8-kV transmission line 400 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 2.8 GWh. The project energy would be sold to the local utility. The dam is owned by the Mitchell County Conservation Board, Osage, Iowa.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based



on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$12,000.

14 a. Type of Application: Preliminary Permit.

b. Project No.: 9846-000.

c. Date Filed: December 31, 1985.

d. Applicant: Monia Hydro Corporation.

e. Name of Project: Monticello Mill Dam.

f. Location: On the Maquoketa River near Monticello, Jones County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Thomas J. Wilkinson, Jr., Monia Hydro Corporation, 630 Higley Building, Cedar Rapids, IA 51401, (319) 366-4990.

i. Comment Date: June 6, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam 10 feet high and 434 feet long; (2) an existing 40-acre reservoir with a storage capacity of 160 acre-feet at a surface elevation of 195 msl; (3) a proposed concrete block powerhouse 22 feet by 25 feet housing two 630-kW generators for a total capacity of 1,260 kW; (4) a proposed 36-kV transmission line 180 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 7.5 GWh. The project energy would be sold to Iowa Electric Light and Power. The dam is owned by the Jones County Conservation Board, Center Junction, Iowa.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$12,000.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 9847-000.

c. Date Filed: December 31, 1985.

d. Applicant: Greia Hydro Corporation.

e. Name of Project: Greene Mill Dam.

f. Location: On Shell Rock River near Greene, Butler County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Thomas J. Wilkinson, Jr., Greia Hydro Corporation, 630 Higley Building, Cedar Rapids, IA 51401, (319) 366-4990.

i. Comment Date: June 9, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam 11 feet high and 290 feet long; (2) an existing 85-acre reservoir with 385 acre-feet of storage capacity at a surface elevation of 946 msl; (3) an existing brick powerhouse 35 feet by 40 feet housing two proposed 325-kW generators for a total capacity of 650 kW; (4) a proposed 13.8-kV transmission line 25 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 3.3 GWh. The project energy would be sold to Interstate Power Company. The dam is owned by the Butler County Conservation Board, Clarksville, Iowa.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$12,000.

16 a. Type of Application: Preliminary Permit.

b. Project No.: 9849-000.

c. Date Filed: December 31, 1985.

d. Applicant: Foria Hydro Corporation.

e. Name of Project: Fort Dodge Mill Dam.

f. Location: On the Des Moines River near Fort Dodge, Webster County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Thomas J. Wilkinson, Jr., Foria Hydro Corporation, 630 Higley Building, Cedar Rapids, IA 51401, (319) 366-4990.

i. Comment Date: June 5, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam 18 feet high and 372 feet long; (2) an existing 90-acre reservoir

with a storage capacity of 450 acre-feet at a surface elevation of 990 msl; (3) an existing brick powerhouse 20 feet by 30 feet housing two proposed 630-kW generators for a total capacity of 1,260 kW; (4) a proposed 13.8-kV transmission line 200 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 7.5 GWh. The project energy would be sold to the local utility. The dam is owned by the City of Fort Dodge, Iowa.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$12,000.

17 a. Type of Application: Preliminary Permit.

b. Project No.: 9872-000.

c. Date Filed: January 3, 1986.

d. Applicant: Joe A. Brady.

e. Name of Project: Brady Shoals.

f. Location: On the South Fork of Broad River near Carlton, Madison and Oglethorpe Counties, Georgia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Joe A. Brady, 3601 June Ivy Road, Bethlehem, GA 30620, (404) 963-9870.

i. Comment Date: June 9, 1986.

j. Description of Project: The proposed project would consist of: (1) A natural rock formation serving as a diversion structure; (2) a proposed canal 20 feet wide, 8 feet deep and 2,485 feet long; and (3) a proposed concrete penstock 5 feet by 5 feet by 20 feet long; (4) a proposed masonry powerhouse 20 feet by 30 feet housing one 250-kW generator and one 750-kW generator for a total capacity of 1,000 kW; (5) a proposed tailrace 125 feet long; (6) a proposed 24-kV transmission line one-half mile long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 7.0 GWh. The project energy would be sold to Georgia Power Company. The project site is owned by A.S.J. Stovall, San



Diego, California, and Joe A. Brady, Bethlehem, Georgia.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that no cash outlay will be necessary to perform the work under the preliminary permit.

18 a. Type of Application: Minor License.

b. Project No.: 8888-001.

c. Date Filed: July 22, 1985.

d. Applicants: Brookfield Power Company, Inc.

e. Name of Project: Oliverian Brook.

f. Location: On the Oliverian Brook in Grafton County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Richard A. Mauser, RFD 336 Governor's Road, Brookfield, NH 03872, (603) 522-3427.

i. Comment Date: June 9, 1986.

j. Description of Project: The proposed project would consist of: (1) A proposed weir-intake structure, with a maximum height of four feet and a length of 36 feet; (2) a proposed small reservoir with negligible storage capacity at 460 feet m.s.l.; (3) 2 proposed 4-foot-diameter steel penstocks approximately 300 feet long; (4) a proposed powerhouse to contain an installed generating capacity 450 kW; (5) a proposed 450-foot-long, 12.5-kV transmission line; and (6) appurtenant facilities. The name, address and phone number of the current owner of the proposed site of the Oliverian Brook Hydroelectric Facility is: Earl and Bertha Aremburg, Ladd Street, RFD, Haverhill, NH 03765, 603-989-5869. The Applicant estimates that the average annual energy generation will be 2,021 MWh. The Applicant proposed to sell the power generated to the Connecticut Valley Power Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

19 a. Type of Application: Declaration of Intention.

b. Docket No.: EL86-16-000.

c. Date Filed: December 23, 1985.

d. Applicant: Focus Energy Corporation.

e. Name of Project: Ouzinkie.

f. Location: On Mahoon Lake in Section 13, T26S, R20W near Ouzinkie on Spruce Island, Alaska.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Contact Person: Mr. Charles Winegarden, P.O. Box 1947, Kodiak, AK 99615, (907) 487-2475.

i. Comment Date: May 14, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 9-foot-high wooden weir at elevation 269 feet; (2) a 5,000-foot-long, 15-inch-diameter penstock; (3) a 100-kW generating unit operated at a head of 240 feet; and (4) a 2,000-foot-long underground transmission line.

A Declaration of Intention requests the Commission commence an investigation to determine if it has jurisdiction over a project.

k. Purpose of Project: The City of Ouzinkie intends to purchase the entire electrical output of this project to supplement the energy produced by diesel powered generators.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

20 a. Type of Application: Preliminary Permit.

b. Project No.: 9885-000.

c. Date Filed: January 24, 1986.

d. Applicant: Environmental Energy Company.

e. Name of Project: Upper Falls River.

f. Location: In Targhee National Forest, on Falls River, in Fremont County, Idaho, township 9N and Range 44E.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: D. Gary Peterson, 110 East Little Avenue, Driggs, ID 83442, (208) 354-2366.

i. Comment Date: June 2, 1986.

j. Description of Project: The proposed project would utilize the Maryville Irrigation Company's existing 14-foot-high diversion dam and would consist of: (1) An inlet on the south bank of the Falls River adjacent to the diversion; (2) a 19,360-foot-long, 96-inch-diameter penstock; (3) a powerhouse containing two generating units with a combined capacity of 4,500 kW and an average annual generation of 35.5 GWh; and (4) an 8,500-foot-long Transmission line. There is no storage reservoir at the dam.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of \$40,000. No new roads would be constructed or

drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

21 a. Type of Applications:

Preliminary Permit.

b. Project No.: 9937-000.

c. Date Filed: March 4, 1986.

d. Applicant: Bitterroot Conservation District.

e. Name of Project: Painted Rocks.

f. Location: At the Montana Department of Natural Resources and Conservation's Painted Rocks dam on the West Fork Bitterroot River, in Ravalli County, Montana, Township 1S and 2S and Range 22W.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Richard Ormsbee, Bitterroot Conservation District, 223 S. 2nd Street, Hamilton, MT 59840, (406) 363-5010.

i. Comment Date: May 9, 1986.

j. Competing Application: Project No. 9364, Date Filed: July 29, 1985.

k. Description of Project: The existing project facilities at the site consist of: (1) A 143-foot-high rockfill embankment dam; (2) a 160-foot-wide spillway; (3) a 30-foot-high intake tower; (4) a 580-foot-long, 10-foot-diameter concrete conduit; and (5) a 655-acre reservoir with a capacity of 45,000 acre-feet at a normal maximum surface elevation of 4467.5 feet. In addition the project would consist of the following proposed facilities: (1) lining the outlet conduit from the outlet gates to the discharge point with a 72-inch diameter penstock; (2) a bifurcation 45 feet upstream of the discharge point; (3) a 72-inch-diameter penstock from the bifurcation to the powerhouse at the toe of the dam; (4) a powerhouse containing 2 generating units with a combined capacity of 2.0 MW and an annual average generation of 9.450 GWh and (5) upgrading an existing transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of \$116,000. No new roads would be constructed or drilling conducted during the feasibility study.

l. Purpose of Project: Project power would be sold to Montana Power Company.

m. This notice also consists of the following standard paragraphs: A8, B, C, and D2.



a. Type of Application: Preliminary Permit.  
b. Project No.: 9671-000.  
c. Date Filed: December 3, 1985.  
d. Applicants: The Elements Power Company.

e. Name of Project: Brownville.  
f. Location: On the Pleasant River in Piscataquis County, Maine.  
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).  
h. Contact Person: Mr. Lawrence A. Gamble, RFD #2, Box 1221, Hampden, MA 01444, (207) 862-3000.

i. Comment Date: May 30, 1986.  
j. Description of Project: The proposed project would consist of: (1) An existing 7-foot-high, 150-foot-long partially breached timber-crib dam with a concrete face; (The Applicant intends to repair the breach and install two-foot-high flashboards) (2) an existing 6-acre reservoir with a normal water surface elevation of 340 feet M.S.L.; (3) an existing 30-foot-wide, 10-foot-deep, 40-foot-long headrace canal located on the bottom floor of a wooden mill building; (4) an existing powerhouse also located in the bottom floor of the mill building containing two new turbine-generators with a total rated capacity of 520 kW; (5) a new 120-foot-long transmission line; and (6) appurtenant facilities. The project property is owned by the Applicant. The project would generate up to 3,000,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope under Permit:* A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of preliminary permit for a period of 24 months. The work to be performed under this preliminary permit would consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permit, and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of work to be performed under the permit would not exceed \$10,000.

a. Type of Application: License (Over 5 MW).  
b. Project No.: 8641-003.  
c. Date Filed: June 7, 1984 and supplemented December 10, 1984.  
d. Applicant: City of Marion, Kentucky and Smithland Hydroelectric Partners.  
e. Name of Project: Smithland Locks and Dam Hydro Project.  
f. Location: On the Ohio River near Smithland, Livingston County, Kentucky.  
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).  
h. Contact Person: Mr. James B. Price, Smithland Hydroelectric Partners, 120

Calumet Court, Aiken, SC 29801, 803-648-0276.

i. Comment Date: June 2, 1986.  
j. Description of Project: The proposed run-of-river project would utilize the existing U.S. Army Corps of Engineers' Smithland Locks and Dam and would consist of: (1) A proposed waterway through the weir section of the dam; (2) a proposed powerhouse containing three 26.66-MW generating units for a total installed capacity of 80 MW; (3) a proposed 220-foot-wide and 110-foot-long tailrace; (4) a new 10-mile-long 161-kV transmission line interconnecting with the Tennessee Valley Authority system; and (5) appurtenant facilities. The Applicant estimates that the average annual generation would be 418 GWh. The proposed project would utilize approximately 38 acres of U.S. lands. All power generated would be sold to Virginia Electric Power Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

24 a. Type of Application: License (Over 5 MW).

b. Project No.: 7115-002.  
c. Date Filed: October 28, 1985.  
d. Applicants: City of Dothan and Municipal Electric Authority of Georgia.  
e. Name of Project: George W. Andrews Water Power Project.  
f. Location: On the Chattahoochee River in Houston County, Alabama and Early County, Georgia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).  
h. Contact Person: Honorable Kenneth Everett, Mayor, City of Dothan, P.O. Box 2128, Dothan, AL 36301, (205) 793-0100.

i. Comment Date: June 2, 1986.  
j. Description of Project: The project would utilize the existing U.S. Corps of Engineers George W. Andrews Lock and Dam, and would consist of: (1) New headworks and powerhouse approximately 120 feet long and 251 feet wide located on the Alabama side of the dam and containing three turbine/generator units having a total installed capacity of 26.7 MW operating at 18 feet of hydraulic head; (2) a new tailrace channel approximately 400 feet long and 197 feet wide; (3) a new 18-mile-long 115-kV transmission line; and (4) appurtenant facilities. The Applicant estimates the average energy production to be 74,900 MWh. All project energy would be used by the City of Dothan.

k. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

25 a. Type of Application: New License (Over 5 MW).

b. Project No.: 1490-003.

c. Date Filed: May 13, 1985 and supplemented October 31, 1985.  
d. Applicant: Brazos River Authority.  
e. Name of Project: Morris Sheppard Dam Project.

f. Location: At Possum Kingdom Lake on the Brazos River in Palo Pinto, Young and Stephens Counties, Texas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Carson H. Hoge, General Manager, Brazos River Authority, P.O. Box 7555, Waco, TX 76714, (817) 776-1441.

i. Comment Date: June 2, 1986.  
j. Description of Project: The licensed project consists of: (1) A buttress-type concrete dam (Possum Kingdom Dam) approximately 2,747 feet long with a maximum height of 155 feet; (2) the Possum Kingdom Lake with a normal maximum water surface area of 17,800 acres at a normal maximum operating elevation of 1,000 feet msl; (3) an intake structure; (4) a powerhouse that is integral with the dam and contains two 11.25-MW generators for an installed capacity of 22.5 MW; (5) a tailrace channel; and (6) appurtenant facilities. The Applicant estimates the average annual energy production to be 32,147 MWh. The Applicant intends to continue to sell the power generated at the project to Brazos Electric Power Cooperative, Inc. Applicant has no plans for future development of this project which has been operating under a license issued in 1938 by the Federal Power Commission. The present license expires on May 24, 1988. The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

k. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

26 a. Type of Application: Minor License Under 5 MW.

b. Project No.: 9732-000.  
c. Date Filed: January 8, 1986.  
d. Applicant: Brookside Hydroelectric Co., Inc.

e. Name of Project: Brookside Hydroelectric.

f. Location: On the Mascoma River in Grafton County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Richard Balagur, Brookside Hydroelectric Co., Inc., RR 1, Box 68, Thetford Center, Vermont, (802) 785-4514.

i. Comment Date: May 12, 1986.  
j. Competing Application: Project No. 9277, Date Filed: June 6, 1985.

k. Description of Project: The proposed project would consist of: (1) The redevelopment of the existing 7-



foot-high and 125-foot-long concrete dam with an existing spillway crest elevation of 539.5 feet NGVD with 2-foot flashboards to be installed for a crest elevation of 541.5 feet NGVD; (2) an existing 0.25-acre surface reservoir with a negligible storage capacity; (3) a new 470-foot-long and 8-foot-diameter steel penstock; (4) a proposed concrete and wood powerhouse containing one turbine/generator unit with an installed capacity of 840 kW; (5) a proposed tailrace channel; (6) a three phase 4.1-kV transmission line approximately 135 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be 3,300,000 kWh operating under a net hydraulic head of 35.5 feet. The dam is owned by H&W Investment Inc., Mr. Wilson Busky and Lebanon Willingmills Inc.

l. Purpose of Project: Project power will be sold to the Granite State Electric Company.

m. This notice also consists of the following paragraphs: A4, B, C, and D1.

27 a. Type of Application: Preliminary Permit.

b. Project No.: 9733-000.

c. Date Filed: December 26, 1985.

d. Applicant: Mack Page Whittaker.

e. Name of Project: Lost Creek Hydro Project.

f. Location: On Creek in Garfield County, Utah: T.31S, R.4W, Sec. 30; T.31S, R.4W, Sec. 1, 2, 11, 12, 13, 24, & 25.

g. File Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Mack Page Whittaker, 165 Van Rensselaer, Stamford, CT 06902.

i. Comment Date: June 2, 1986.

j. Description of Project: The proposed project would be located on private lands as well as lands of the Dixie National Forest and the Bureau of Land Management, and would consist of: (1) an existing earth and wood diversion dam, 2.5 feet high and 6.5 feet long; (2) an existing intake structure and an aluminum conduit, 8 inches in diameter and 1.5 miles long; (3) a new powerhouse, 15 feet long, 9 feet wide and 9.5 feet high, with an installed capacity of 101 kW and operating under a head of 500 feet; (4) a tailrace discharging into an irrigation system; (5) a new transmission line, 1.9 miles long, interconnecting with an existing Utah Power & Light Company line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 752,046 kWh.

k. Purpose of Project: Project energy would be sold to the Utah Power and Light Company.

l. A preliminary permit, if issued, does not authorize construction. Applicant

seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development.

Applicant estimates that the cost of the studies under permit would be \$8,300.

m. This notice also consists of the following paragraphs: A5, A7, A9, B, C, D2.

28 a. Type of Application: Conduit Exemption.

b. Project No.: 9879-000.

c. Date Filed: January 16, 1986.

d. Applicant: Camrose County Water District.

e. Name of Project: Woodcreek Road Power Generation Station.

f. Location: On Application's existing water delivery system, near Camarillo, in Ventura County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Mr. Walter J. Hampton, General Manager, Camrosa County Water District, 7385 East Santa Rosa Road, Camarillo, CA 93010, (805) 482-4677.

i. Comment Date: May 9, 1986.

j. Description of Project: The proposed project would utilize Applicant's existing 16-inch-diameter conduit. The proposed project would consist of: (1) A powerhouse containing dual turbines and a single generator with a rated capacity of 150 kW, operating under a head of 215 feet; and (2) penstocks consisting of 15 feet of 18-inch-diameter pipe and 40 feet of 14-inch-diameter pipe. The water used for power generation is returned to the Applicant's water distribution system. A 50-foot-long transmission line would connect the project to an existing 12-kV Southern California Edison (SCE) line. The project's estimated average annual generation of 550 MWh would be sold to SCE.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

29 a. Type of Application: License (5 MW or Less).

b. Project No.: 8017-001.

c. Date Filed: November 29, 1985.

d. Applicant: Colusa County, California.

e. Name of Project: East Park Dam Hydroelectric.

f. Location: At the existing Bureau of Reclamation's East Park Dam on Little Stony Creek in Colusa County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Ferrel H. Ensign, Borcalli Ensign & Buckley, Consulting Engineers, 3327 Longview Drive, North Highlands, California 95660, (916) 971-3961.

i. Comment Date: May 30, 1986.

j. Description of Project: The proposed project would utilize an existing East Park Reservoir having a maximum surface area of 1,820 acres and a storage capacity of 50,900 acre-feet at a water surface elevation of 1199 feet msl. The proposed project would consist of: (1) A 65-foot-long, 54-inch-diameter steel penstock, inside an existing 60-inch-diameter concrete outlet of the East Park Dam, which would connect to two 42-inch-diameter penstocks; (2) a powerhouse containing two Francis Turbines and two generators with a total rated capacity of 1.08 MW, operating under a head of 62 feet; and (3) a 21-kV, one-mile-long transmission line interconnecting the project to an existing 12-kV Pacific Gas and Electric (PG&E) line which will be upgraded to 21-kV. The project's estimated annual generation of 4.1 GWh would be sold to PG&E. The estimated cost of constructing the project is \$1,928,000. The existing East Park Dam is owned by the U.S. Bureau of Reclamation. Orland Water user's Association operates and maintains the project facilities, and it also holds the permits and licenses for the water rights at the dam. The application was filed pursuant to a 18-month preliminary permit issued to the Applicant on June 5, 1984, 27 FERC ¶62,225 (1984).

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

#### Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any



competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

**A5. Preliminary Permit**—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

**A7. Preliminary Permit**—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

**A8. Preliminary Permit**—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

**A9. Notice of intent**—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an

unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

**B. Comments, Protests, or Motions to Intervene**—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

**C. Filing and Service of Responsive Documents**—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

**D1. Agency Comments**—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the

issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**D2. Agency Comments**—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**D3 a. Agency Comments**—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**D3 b. Agency Comments**—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a



condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: April 3, 1986.  
Lois D. Cashell,  
Acting Secretary.  
[FR Doc. 86-7489 Filed 4-3-86; 8:45 am]  
BILLING CODE 6717-01-M

### Office of Hearings and Appeals

#### Cases Filed; Week of February 28 through March 7, 1986

During the Week of February 28 through March 7, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. A submission inadvertently

omitted from earlier lists has also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

George B. Breznay,  
Director, Office of Hearings and Appeals.  
March 26, 1986.

#### LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 28 through Mar. 7, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 24, 1986	Tri-Service Drilling Company, Washington, DC	KRZ-0030	Interlocutory. If granted: The Proposed Remedial Order issued to Tri-Service Drilling Company (Case No. KRO-0120) would be dismissed.
Feb. 28, 1986	Bannock Regional Medical Center, Pocatello, Idaho	KEE-0029	Exception to the energy conservation program. If granted: Bannock Regional Medical Center would receive an exception from the regulations at 10 CFR 455 governing the Department of Energy's institutional conservation grants program for schools and hospitals.
Mar. 3, 1986	McLain's Truck Service, Inc., Lovington, New Mexico	KEE-0028	Exception to the reporting requirements. If granted: McLain's Truck Service, Inc. would no longer be required to file Form EIA-782B, "Reseller/Retailers' Monthly Petroleum Product Sales Report".
Do	Rodney L. Brown, Jr., Seattle, Washington	KFA-0019	Appeal of an information request denial. If granted: Rodney L. Brown, Jr. would receive access to documents relating to information on arrangements made with the government of Taiwan.
Mar. 4, 1986	Economic Regulatory Administration, Washington, DC	KRZ-0027	Interlocutory. If granted: Donald E. Baxter would be joined as a party to the enforcement proceeding involving Consolidated Materials, Inc. (Case No. HRO-0107).
Mar. 5, 1986	Amoco/Indiana, Indianapolis, Indiana	RM21-17	Request for modification/rescission in the Amoco second stage refund proceeding. If granted: The June 4, 1985 Decision and Order (Case No. RQ21-165) issued to Indiana would be modified regarding the state's plan submitted in the Amoco second stage refund proceeding.
Do	Economic Regulatory Administration, Washington, DC	KRZ-0028	Interlocutory. If granted: The Revised Proposed Remedial Order issued to MGPC, Inc. (Case No. HRO-0226) would be amended to reflect a reduction in the total alleged violation to \$924,249, plus interest.
Do	Economic Regulatory Administration, Washington, DC	KRZ-0029	Interlocutory. If granted: The Revised Proposed Remedial Order issued to MGPC, Inc. (Case No. HRO-0226), as amended by the Economic Regulatory Administration's motion of November 2, 1984, would be further revised to reflect a reduction in the total alleged violation to \$390,093, plus interest.
Mar. 6, 1986	DeGrood Oil, Inc., Faribault, Montana	KEE-0030	Exception to the reporting requirements. If granted: DeGrood Oil, Inc. would not be required to file Form EIA-782B, "Reseller/Retailers' Monthly Petroleum Products Sales Report".

#### REFUND APPLICATIONS RECEIVED

[Week of Feb. 28 to Mar. 7, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
3/7/86	Field/Delbert Jensen	RF173-15
3/7/86	F.O. Fletcher/Paddy's Fuel	RF172-28
3/7/86	F.O. Fletcher/Alfred Norm Drew	RF172-27
3/7/86	Gulf/Naperville Car Wash	RF40-3120
3/5/86	Pennzoil/Indiana	RQ10-284
3/6/86	Conoco/Franger Gas Company	RF220-15
3/6/86	Conoco/Jacksonville Electric Authority	RF220-14
3/6/86	Amoco/Palmetto Gas Company	RF21-12582
3/6/86	Amoco/Quality Oil Company	RF21-12583
3/6/86	Gulf/Connecticut	RF40-3119
3/6/86	Receive Orders/Farmers Union Central Exchange Inc.	RF171-34
3/6/86	Gulf/Schupach & Straitmatter Gas Co.	RF40-3118
3/6/86	Belcher/A. Cecchi Fuel Oil	RF227-10
3/5/86	Post/Manuel D. Silva	RF229-4
3/6/86	Crystal/Pleasant Springs Grocery Store	RF233-5
3/4/86	Appalachian/General Shale Products Corporation	RF234-5

#### REFUND APPLICATIONS RECEIVED—Continued

[Week of Feb. 28 to Mar. 7, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
3/4/86	Appalachian/George C. Sells	RF234-6
3/5/86	Crystal/Arizona Chemical Company	RF233-3
3/5/86	Gulf/Gas 'N' Save, Inc.	RF40-3116
3/5/86	Crystal/Domingo T. Billarreal	RF233-4
3/5/86	Gulf/Rose Gulf Service	RF40-3117
3/5/86	Field/Harry Duckworth	RF173-14
3/5/86	Moyle/Three Fuels Store	RF201-6
3/3/86	Earth/Defense Logistics Agency	RF239-3
3/3/86	Post/Gill Livestock Company	RF229-3
3/3/86	Conoco/Defense Logistics Agency	RF220-13
3/3/86	Sid Richardson/De Reu Skelgas Co.	RF26-30
3/4/86	Belcher/Chrabasz Oil Company	RF227-9
3/3/86	Union Texas/Goodyear Tire & Rubber Co.	RF140-38
3/3/86	Sid Richardson/Kerschner's Gas Service	RF26-29
3/3/86	Crystal/Belvons Country Store	RF233-2

#### REFUND APPLICATIONS RECEIVED—Continued

[Week of Feb. 28 to Mar. 7, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
3/3/86	Post/Joe Valine	RF229-2
3/3/86	Beacon/Buford Oil Company	RF238-4
3/3/86	Earth/C & G Gas Company	RF239-2
3/3/86	Gulf/Small's L.P. Gas Company	RF40-3114
3/3/86	Gulf/Houston Lighting & Power Company	RF40-3115
3/3/86	National Helium/New York	RQ3-281
3/3/86	Gulf/Bolduc's Tire & Service Inc.	RF40-3113
2/28/86	Earth Resources/Lubricants Inc.	RF239-1
2/28/86	Boswell/Belle Vernon Oil Company	RF179-16
2/28/86	Plateau/Dial Oil Co., Inc.	RF204-8
3/3/86	Belcher/Ludwin Oil Company	RF227-8
2/28/86	Union Texas/Williamson City B.O.E.	RF140-37
3/3/86	Pennzoil/New York	RQ10-282
3/3/86	Coline/New York	RQ2-283
2/28/86-3/7/86	Eastern of New Jersey Refund Applications	RF232-210 through RF232-237



## REFUND APPLICATIONS RECEIVED—Continued

[Week of Feb. 28 to Mar. 7, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
2/28/86- 3/7/86	Mobil Oil Corporation Refund Applications.	RF225-197 through RF225-246
2/28/86- 3/7/86	Quaker State Oil Corporation Refund Application.	RF213-142 through RF213-191

[FR Doc. 86-7483 Filed 4-3-86; 8:45 am]

BILLING CODE 6450-01-M

### Issuance of Decisions and Orders; Week of February 24 through February 28, 1986

During the week of February 24 through February 28, 1986, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

#### Requests for Exception

*Knox Nelson Oil Company, 2/25/86, KEE-0002*

Knox Nelson Oil Company filed an Application for Exception seeking relief from the requirement that it prepare and file Form EIA-782B, "Reseller/Retailers' Monthly Petroleum Product Sales Report" with the DOE Energy Information Administration. In considering the request, the DOE found that there was some merit to the firm's contention that it was unduly burdened by the requirement that it file the form. The DOE noted that it took the firm's accountant six hours each month to accurately complete the form, substantially longer than the average time required to complete Form EIA-782B. After balancing this burden against the public interest in gathering reliable energy data, the DOE determined that a limited form of exception relief was appropriate. Accordingly, Knox Nelson will be permitted to file reports using estimated data. These estimates will be based upon actual January 1986 figures and the estimates will be revised if the firm is still obligated to file Form EIA-782B in 1987.

*Wadsworth Oil Company, Inc., 2/28/86, KEE-0010*

Wadsworth Oil Company filed an Application for Exception seeking relief from the requirement that it prepare and file Form EIA-782B with the DOE Energy Information Administration. In considering the request, the DOE found that there was some merit to the firm's contention that it was burdened by the filing requirement. After balancing this burden against the public interest in gathering reliable energy data, the DOE determined that a limited form of exception relief was appropriate. Accordingly, exception relief was granted to

simplify the reporting requirement and thereby reduce the burden on Wadsworth.

#### Motion for Discovery

*Questor Petroleum Corp., HRD-0272, Kyle S. McAlister, 2/26/86, HRH-0272*

Questor Petroleum Corporation and Kyle S. McAlister (Questor) filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order (PRO) issued to the firm on July 27, 1984. In the PRO, the ERA alleges that Questor violated the "anti-layering" provisions of 10 CFR Part 212, Subpart L. In its Motion for Discovery, Questor sought information regarding (1) the audit of the firm, (2) the administrative records for various rulemakings applicable to crude oil resellers, and (3) the DOE's contemporaneous construction of portions of the crude oil regulations as they pertained to crude oil resellers. Questor's Motion for Evidentiary Hearing requested that OHA, among other things, convene an evidentiary hearing for the purpose of receiving oral testimony regarding the services that the firm provided in connection with the crude oil sales that are the subject of the PRO.

In the Decision and Order, the DOE determined that the requested discovery would not elicit relevant and material information, and Questor had not demonstrated that the firm needed additional information in order to adequately defend itself against the charges set forth in the PRO. However, the DOE found that a genuine factual dispute exists that relates to the reseller services performed by Questor. Accordingly, Questor was permitted to present evidence concerning the exact services performed in connection with the transactions set forth in the PRO.

#### Refund Applications

*APCO Oil Corporation/Hassett Oil Company, 2/26/86, RF83-77*

The DOE issued a Decision and Order concerning an Application for Refund filed by Hassett Oil Company. The applicant had purchased refined petroleum products from APCO Oil Corporation, and sought a portion of the settlement fund obtained by the DOE through a consent order with APCO. The applicant purchased petroleum products only on a sporadic basis from APCO, and was therefore considered a spot purchaser. In *APCO Oil Corp.*, 12 DOE ¶ 85,149 (1985), we established the rebuttable presumption that spot purchasers were generally not injured by the alleged APCO overcharges. Since Hassett did not rebut this presumption, its Application for Refund was denied.

*Ayers Oil Company/American Cyanamid Company, 2/24/86, RF177-0005*

The DOE issued a Decision and Order concerning an Application for Refund filed by American Cyanamid Company, an end-user of Ayers fuel oil who purchased the product directly from Ayers. The claimant applied for a refund based on the procedures outlined in *Ayers Oil Co.*, 13 DOE ¶ 85,066 (1985). After examining the evidence and supporting documentation submitted by the applicant, the DOE concluded that American Cyanamid should receive a total of \$106 (\$91 principal

plus \$15 interest) based upon a total purchase volume of 158,055 gallons of Ayers fuel oil.

*Bayou State Oil Co., Ida Gasoline, Inc./Delta Petroleum Co., 2/28/86, RF117-16*

The DOE issued a Decision and Order concerning an Application for Refund filed by a reseller of Bayou State motor gasoline. The claimant applied for refunds based on the procedures outlined in *Bayou State Oil Company*, 12 DOE ¶ 85,197 (1985). The applicant supplied evidence of very large purchases from Bayou State, but agreed to limit its claim to the small claims threshold amount. After examining the application and supporting documentation, the DOE concluded that the applicant should receive a refund of \$5,000 principal plus an additional \$2,375 interest.

*C.C. Dillon Co./Green Park Texaco, 2/24/86, RF148-2*

The DOE issued a Decision and Order concerning an Application for Refund filed by Green Park Texaco, a retailer of motor gasoline purchased from C.C. Dillon Company. Green Park made spot market purchases of Dillon motor gasoline during the consent order period. After reviewing cost and selling price data submitted by the firm, the DOE determined that Green Park had not overcome the presumption that spot purchasers were not injured by the alleged Dillon overcharges. Accordingly, Green Park's Application for Refund was denied.

*Good Hope Refineries/TransAmerican Natural Gas Corp., RF189-21; Saber Energy, Inc./TransAmerican Natural Gas Corp., 2/28/86, RF192-16*

The DOE issued a Decision and Order concerning two Applications for Refund filed by TransAmerican Natural Gas Corporation, successor to Good Hope Industries, a refiner and reseller of covered petroleum products. TransAmerican was applying for refunds based on purchases by Good Hope Industries from Good Hope Refineries and from Saber Energy. With respect to the Good Hope claim, the DOE found that TransAmerican had not rebutted the presumption that it was not injured by alleged overcharges on sales from Good Hope Refineries to Good Hope Industries. The DOE also found that because Good Hope Industries is currently behind on payments to the DOE pursuant to its consent order, the equitable doctrine of unclean hands requires that it be barred from receiving refunds from any DOE escrow account. Accordingly, both of TransAmerican's claims were denied.

*Gulf Oil Corp./American Fabrics Company et al., 2/26/86, RF40-50 et al*

The DOE issued a Decision and Order concerning 32 Applications for Refund filed by end-users of petroleum products purchased from the Gulf Oil Corporation. In its Decision, the DOE granted the 32 applications under the standards and methods specified on *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). The refunds granted in this proceeding total \$73,827, representing \$62,549 in principal and \$11,278 in interest.

*Gulf Oil Corporation/Henry's Interstate Gulf, RF40-235; Richard's Tire and Auto Supply, 2/26/86, RF40-330*



The DOE issued a Decision and Order concerning Applications for Refund filed by two indirect purchasers of Gulf petroleum products. On July 9, 1985, Gulf and the DOE agreed that the DOE could disburse \$25 million to qualified Gulf refund claimants through a Subpart V special refund proceeding, with priority to be given to direct purchasers. Since the total value of all claims previously paid or currently pending (indirect as well as direct) is considerably less than \$25 million, OHA announced in this Decision that it would begin to disburse refunds to qualified applicants who purchased Gulf covered products indirectly. In considering claims submitted by two indirect purchasers from Gulf, Henry's Interstate Gulf and Richards Tire and Auto Supply, OHA found that both demonstrated that they would not have been required to pass through to their customers a cost reduction equal to the refund claimed. The applicants also fulfilled the other requirements listed in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). Accordingly, the firms were granted refunds totalling \$2,565 (\$2,173 principal plus \$392 interest).

*Gulf Oil Corporation/Olen Oil Company, RF40-520; Plains Oil & Gas, 2/25/86; RF40-521*

Olen Oil Company (Olen) and Plains Oil & Gas (Plains) filed Applications for Refund seeking portions of the funds obtained by the DOE through a Consent Order with Gulf Oil Corporation. The DOE concluded that the firms met the standards established in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). Accordingly, Olen was awarded a refund of \$8,937 principal and \$1,465 interest, while Plains received \$5,179 principal and \$849 interest.

*Husky Oil Company/Rapp's, Inc., 2/28/86; RF161-90*

The DOE issued a Decision and Order concerning an Application for Refund filed by Rapp's, Inc. The applicant had purchased refined petroleum products from Husky Oil Company, and sought a portion of the settlement fund obtained by the DOE through a consent order with Husky. The applicant was eligible to apply for a refund greater than \$5,000, but elected to limit its claim to \$5,000 and therefore followed the small claims procedures outlined in *Husky Oil Co.*, 13 DOE ¶ 85,045 (1985). After examining the evidence and supporting information submitted by the firm, the DOE concluded that the firm should receive a refund. The amount of refund granted was \$7,072, representing \$5,000 in principal and \$2,072 in accrued interest.

*Leese Oil Company/Melvin R. Wilde, 2/24/86; FR211-5*

The DOE issued a Decision and Order concerning an Application for Refund filed by Melvin R. Wilde, a reseller of motor gasoline purchased from Leese Oil Company. Although Wilde requested a refund greater than the amount calculated using the per gallon volumetric factor established in the Leese Special Refund Proceeding, the DOE found that Wilde was unable to show that he suffered a disproportionate injury as a result of the alleged Leese overcharges. Accordingly, the DOE determined that Wilde should be granted a refund at a level no greater than that calculated using the per

gallon volumetric factor. The total refund amount approved in this Decision and Order is \$549 (\$464 principal plus \$85 interest).

*Little America Refining Company/Stobbs Oil Company, 2/28/86; FR112-189*

The DOE issued a supplemental Decision and Order granting Stobbs Oil Company an additional refund from the Little America Refining Company deposit escrow account. Stobbs received the additional amount of \$3,193, representing \$2,149 principal and \$1,044 interest, after it was pointed out that the firm had been underpaid in a Decision and Order issued by the DOE on January 16, 1986.

*OKC Corp./Hamilton Oil Company, 2/25/86; RF13-41*

The DOE issued a Decision and Order concerning an Application for Refund filed by Hamilton Oil Company. Hamilton sought a portion of the settlement fund obtained by the DOE through a consent order entered into with OKC Corporation. Hamilton is a motor gasoline wholesaler which purchased motor gasoline from OKC during 24 months of the period covered by the OKC consent order. The DOE granted Hamilton's refund application based upon standards established in *Office of Enforcement: In the Matter of OKC Corp.*, 9 DOE ¶ 82, 551 (1982). The refund granted to Hamilton totaled \$5,522 (\$3,364 principal plus \$2,158 interest).

*OKC Corp./Highland Petroleum, Inc., RF13-38; Westport Energy Corp., RF13-39; Sooner Petroleum Co., 2/26/86; RF13-40*

The DOE issued a Decision and Order concerning three Applications for Refund filed by purchasers of motor gasoline and middle distillate from OKC Corporation. The DOE denied one of the applications on the grounds that the applicant requested a refund based upon fuel oil purchases from OKC which occurred after middle distillates were exempted from the DOE price control program. The DOE granted the other two applications under standards established in *Office of Enforcement: In the Matter of OKC Corp.*, 9 DOE ¶ 82,551 (1982). The refunds granted in this proceeding total \$47,525 (\$28,950 principal plus \$18,575 interest).

*Sid Richardson Carbon and Gasoline Company and Richardson Products Company/California, RF26-7; Michigan, RF26-8; Illinois, RF26-9; Indiana, 2/28/86; RF26-10*

The DOE issued a Decision and Order concerning an Application for Refund filed by four states, California, Michigan, Illinois and Indiana (the States). The States filed on behalf of a class of ultimate consumers, comprising the citizens of their states, seeking a portion of the funds obtained by the DOE through a consent order it entered into with Sid Richardson Carbon and Gasoline Company and Richardson Products Company (Sid Richardson). In considering the Application, the DOE pointed out that in the first stage of a refund proceeding, the documented claims of identified purchasers are considered. Since the States' claim was not submitted on behalf of identified purchasers with documented purchase volumes, the DOE determined that it would be inappropriate to consider their

Application in the first stage of the Sid Richardson proceeding. Accordingly, the Application submitted by California, Michigan, Illinois and Indiana was dismissed.

*Sid Richardson Carbon and Gasoline Company/Steven's Petro, RF26-23; Little America Refining Company/Baxley Oil Company, 2/27/86; RF112-187*

Steven's Petro and Baxley Oil Company filed Applications for refund seeking portions of the funds obtained by the DOE through Consent Orders with Sid Richardson Carbon and Gasoline Company and Little America Refining Company, respectively. The DOE concluded that the firms met the standards established in *Office of Enforcement*, 10 DOE ¶ 85,056 (1983), and *Seminole Refining, Inc.*, 12 DOE ¶ 85,186 (1985), respectively. Accordingly, Steven's Petro was awarded a refund of \$488 principal and \$436 interest, while Baxley Oil Company received \$1,287 principal and \$626 interest.

#### Dismissals

The following submissions were dismissed.

#### Name and Case No.

Dennis M. O'Brien, KFA-0012  
Franks Petroleum, Inc., KRO-0210  
Marathon Oil Company, BRO-0983, BRH-0983, HRH-0027, HRD-0262, HRO-0242, HRD-0249, HRX-0107, HRD-0235, HRD-0246  
Red Triangle Oil Co., RF40-303  
Sierra Club Radioactive Waste Campaign, KFA-0018  
Vanderbilt Energy Corp., KR0-0014

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,  
Director, Office of Hearings and Appeals.  
March 26, 1986.

[FR Doc. 86-7484 Filed 4-3-86; 8:45 am]

BILLING CODE 6450-01-M

#### Implementation of Special Refund Procedures

**AGENCY:** Office of Hearings and Appeals, Energy.

**ACTION:** Notice of implementation of special refund procedures.

**SUMMARY:** The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from a fund of \$600,000 obtained from Sigmor Corporation in settlement of enforcement proceedings brought by



# DOE's Economic Regulatory Administration.

**DATE AND ADDRESS:** Applications for refund must be filed by July 3, 1986, should conspicuously display a reference to case number HEF-0581 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-2094.

**SUPPLEMENTARY INFORMATION:** In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order establishes procedures to distribute funds obtained as a result of a consent order between Sigmor Corporation and DOE. The consent order settled all disputes between DOE and Sigmor concerning possible violations of DOE price regulations with respect to the firm's sales or refined petroleum products to its customers, during the period January 1973 through January 1981.

Any members of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. All Applications should be filed by July 3, 1986, and should be sent to the address set forth at the beginning of this notice. Applications for refunds must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: March 17, 1986.

Richard T. Tedrow,  
Acting Director, Office of Hearings and Appeals.

## Decision and Order of the Department of Energy

### Implementation of Special Refund Procedures

March 17, 1986.

*Name of Firm:* Sigmor Corporation.

*Date of Filing:* May 6, 1985.

*Case Number:* HEF-0581.

On May 6, 1985, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a petition with the Office of Hearings and Appeals (OHA), requesting that the

OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving Sigmor Corporation (Sigmor). See 10 CFR Part 205, Subpart V.

On November 13, 1985, we issued a Proposed Decision and Order tentatively setting forth procedures to distribute refunds to parties who were injured by Sigmor's alleged violations. In the proposed decision we described a two-stage refund process for the distribution of the funds made available by the Sigmor consent order. In the first stage we will refund money to identifiable purchasers of covered products who may have been injured by Sigmor's pricing practices during the period January 1, 1973 through January 28, 1981. This decision describes the information that a purchaser of Sigmor's petroleum products should submit in order to demonstrate eligibility to receive a portion of the consent order funds.

After meritorious claims are paid in the first stage, a second stage refund procedure may become necessary. See generally Office of Special Counsel, 10 DOE ¶ 85,048 (1982) (refund procedures established for first stage applicants, second stage refund procedures proposed). However, because our determination concerning the disposition of any remaining funds will necessarily depend on the size of the fund, it is premature for us to address this issue. In response to our November 13, 1985 proposed decision, several states filed comments concerning the disposition of possible funds remaining at the conclusion of the first stage proceedings. Those comments will not be discussed here.

## I. Jurisdiction

The DOE procedural regulations set forth general guidelines by which the Office of Hearings and Appeals may formulate a plan for distributing funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the Department is unable to readily identify persons who were injured by regulatory violations or to readily ascertain the amount of the refund they are eligible to receive. 10 CFR 205.280. As discussed below, we have determined that the underlying Sigmor pricing practices affected all of the firm's customers. Under these circumstances, Subpart V provides a mechanism for achieving restitution to persons injured by Sigmor's practices. The Office of Hearings and Appeals will therefore accept jurisdiction over the funds at issue.

## II. Background

Sigmor is now a subsidiary of Diamond Shamrock. However, during the consent order period, Diamond Shamrock was Sigmor's major supplier of motor gasoline. During the period of federal controls, Sigmor was a reseller-retailer of motor gasoline as well as a refiner of crude oil as those terms were defined in 10 CFR Part 212. Sigmor's reseller operation was comprised of Sigmor Corporation and Houston Electronic and Processing Company (HEPCO), which Sigmor acquired in 1978. Its retail operation was comprised of 930 service stations (530 Sigmor Service Stations and 400 Autotronic Service Stations) owned and operated by Sigmor. At that time, Sigmor Refining Company, a subsidiary of Sigmor Corporation, began supplying motor gasoline and other petroleum products to its own service stations as well as additional customers. A DOE audit of Sigmor's records revealed possible regulatory violations with respect to the firm's pricing of motor gasoline during the consent order period. To settle all claims and disputes between Sigmor and the DOE, the two parties entered into a consent order on December 8, 1983. Under the terms of the consent order, Sigmor remitted \$600,000 to the DOE on January 4, 1984. That sum is being held in an interest bearing escrow account established with the United States Treasury pending a determination of their proper distribution, and as of January 31, 1986, the Sigmor escrow account had earned \$120,779 in interest. This Decision concerns the distribution of the funds in the escrow account, plus the accrued interest.

## III. Refund Procedures

The Sigmor consent order funds shall be distributed to claimants who satisfactorily demonstrate that they were injured by Sigmor's alleged pricing violations. The information available to us at this time regarding Sigmor's operations during the audit period provides names and addresses of the customers of Sigmor's refining division (Sigmor Refining Company) but not the names of purchasers at Sigmor's 930 retail outlets. The products sold at these outlets consisted primarily of motor gasoline and were sold by Sigmor Service Stations and Fill'em Fast gasoline stations. These stations were located in Texas, Louisiana, California, Pennsylvania, Virginia, Colorado, Georgia, Tennessee, Washington and eleven other states. From our research, we believe that the claimants in this proceeding will fall into the following



categories: (1) Resellers (including retailers), and (2) firms, individuals, or organizations that were consumers (end-users). The petroleum products purchased by these claimants were purchased either directly from Sigmor or from other firms in a chain of distribution leading back to Sigmor. In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of Sigmor petroleum products for the period January 1, 1973 through January 28, 1981.<sup>1</sup> If the products were not purchased directly from Sigmor, the claimant must include a statement setting forth its reasons for believing the product originated with Sigmor. In addition, a reseller or retailer that files a claim will be required to establish that it was injured by the alleged overcharges. To make this showing, a reseller or retailer claimant will be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. See *Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982).

As in many prior cases, we will adopt four rebuttable presumptions regarding injury. These presumptions have been used in many previous special refund cases. First we will presume that end-users or ultimate consumers of Sigmor products whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges. Second, we will not require a showing of injury from regulated utilities or agricultural cooperatives that passed the alleged overcharges on to their end-user members. Third, we will presume that purchasers of Sigmor products who are claiming small refunds (\$5,000 or less) were injured by the alleged overcharges. Finally, we will adopt a presumption that spot purchasers were not injured. Prior OHA decisions provide detailed explanations of the bases for these presumptions. *e.g.*, *True Co.* 13 DOE ¶ 85,178 at 88,484-85 (1985). We also explained the rationale for these presumptions in the Proposed Decision. 50 FR 48259 at 48259-60 (November 22, 1985). The presumptions will permit claimants to apply for refunds without incurring disproportionate expenses and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited

resources available. Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on one of the first three presumptions outlined above.

A successful refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated by dividing the settlement amount by our estimate of total gallonage of products covered by the consent order. In the present case, based on the information available to us at this time, the volumetric refund amount is \$.000134 per gallon exclusive of interest.<sup>2</sup> As of January 31, 1986, accumulated interest increased the volumetric refund amount to \$.000161.

As in previous cases, we will establish a minimum refund amount of \$15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than \$15.00 outweighs the benefits of restitution in those situations. See, *e.g.*, *Urban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

#### IV. Application for Refund

After having considered all the comments received concerning the first stage proceedings tentatively adopted in our November 13, 1985 proposed decision, we have concluded that applications for refund should now be accepted from parties who purchased Sigmor petroleum products. An application must be in writing, signed by the applicant, and specify that it pertains to the Sigmor Refund Proceeding, case number HEF-0581.

An applicant should indicate from whom the covered product was purchased, and, if the applicant is not a direct purchaser from Sigmor, it should also indicate the basis for its belief that the petroleum product purchased originated from Sigmor. Each applicant should report its volume of purchases by month for the period of time for which it is claiming it was injured by the alleged overcharges. Each applicant should specify how it used the Sigmor petroleum product, such as whether it was a reseller or ultimate consumer.

If the applicant is a reseller applying for a refund of greater than \$5,000, it should state whether it maintained

banks of unrecouped product cost increases from the date of the alleged violation through January 27, 1981. An applicant who did maintain banks should furnish the OHA with a schedule of its cumulative banks calculated on a quarterly basis from January 1973 through January 27, 1981. The applicant must submit evidence to establish that it did not pass on the alleged injury to its customers, if the applicant is a reseller. For example, a firm may submit market surveys or information about changes in its profit margins or sales volume to show that price increases to recover alleged overcharges were infeasible. The applicant should report any past or present involvement as a party in DOE enforcement actions. If these actions have terminated, the applicant should furnish a copy of a final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status while its application for refund is being considered. See 10 CFR 205.9(d).

Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." See 10 CFR 205.283(c); 18 U.S.C. § 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by us for additional information concerning the application.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E-234, 1000 Independence Avenue, Washington, D.C. Any applicant that believes that its application contains confidential information must so indicate on the first page of its application and submit to additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential.

All applications should be sent to: Sigmor Special Refund Proceeding, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Applications for refund of a portion of the Sigmor consent order funds must be postmarked within 90 days after publication of this Decision and Order in the *Federal Register*. See 10 CFR 205.286. All applications for refund

<sup>1</sup> In June 1976, heating oil and fuel oil were deregulated. Consequently, they were not subject to any type of price control after this date. Therefore, Applications for Refund will not be accepted for these products if they were purchased after June 1976.

<sup>2</sup> According to information available to us, during the consent order period, Sigmor sold 4,483,510,464 gallons of regulated petroleum products. The volumetric refund amount is obtained by dividing the amount remitted by Sigmor by this volume amount (\$600,000 divided by 4,483,510,464 gallons = \$.000134 per gallon).



received within the time limit specified will be processed pursuant to 10 CFR 205.284.

#### V. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in a number of different ways. However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed.

##### It Is Therefore Ordered That:

(1) Applications for Refunds from the funds remitted to the Department of Energy by Sigmor Corporation and its subsidiaries pursuant to the consent order executed on December 8, 1983 may now be filed.

(2) All applications must be filed within 90 days after publication of this Decision and Order in the Federal Register.

Dated: March 17, 1986.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

#### Appendix I—Sigmor Corporation

Case No. HEF-0581

##### Customers Addresses Known

ABC Truck Rental  
Acc-Div of Sa Prtld Comnt  
Acco Feeds Inc.  
A&J Trucking Co.  
SA Portland Cement  
Airlogistics, Inc.  
Alamo Iron Works  
Albertson/South Co.  
Alamo Exchange Region  
Alamo White  
Allen & Breach  
Sig/Amer Petro  
Allred Oil Co.  
Alpine Flying Service  
Amerada Hess Corp.  
Amerada Hess  
Houston Natural Gas  
American Petrofina Co.  
O.W. Appelt Co.  
Apex Oil Company  
Apache Concrete  
Arkansas Shrimp Co-op  
Arbuckle Oil Co.  
Arguindegui Oil Co.  
Arrow Enterprises  
Associated Oil Service  
Aycock Inc.  
Gene Aycock Petroleum Co.  
Mr. B.S.  
Bandas Industries, Inc.  
Barbour Bros. Oil Co.  
Baroid Inc.  
B&D Truck Stop  
Pat Baker Company  
Basse Truck Lines  
Bear Oil Co.  
Benefield Dist. Co.  
Bennett Oil Co.  
Berry Contracting

Bil-80 Freight Lines  
Big K Oil Co.  
Bob's Quick Stop  
Braden Oil Company  
Braniff International  
Browder Dist. Co.  
Brown Express  
Browne Aviation, Inc.  
Bryce Oil Company  
C & H Transportation Co.  
C & I Transport  
C & W Oil Field Services  
Calhoun-Smith  
Fred Carrol Ent. Inc.  
Carthel Inc.  
Coastal Transport Co.  
Continental Oil Co.  
Central Freight Lines  
Central Freight  
Charles Oil Co.  
Chaney Construction Co.  
Charter Crude Oil Co.  
Charter Crude Fuels Internatl.  
Chesson Oil Co.  
Cities Service Co.  
City Public Service Bd.  
Clearwater Constructors  
Coastal Transport Co.  
Coca Cola Bottling Co.  
Colonial Cake Co.  
Consolidated Enterprises  
Connally Trucking  
Benny Cope  
Coral Petroleum  
City of Austin  
City of Corpus Christi  
City of Brady  
City of San Antonio  
Cross Oil & Refining Co.  
Cravens Truck Center  
Crystal Petroleum Co.  
Cfenuelge Oil Co.  
Crown Zellerbach  
Cudd Enterprises  
D & D Trucking Co.  
Dalvest Energy, Inc.  
Davison Oil Co.  
Dawn Co-op  
Decker Jacob & Sons  
Bob Dietze Oil Co.  
Dinero Grocery  
Dixie Oil & Chemical Co.  
Dono Oil Co.  
Donnina Inc.  
Double Eagle Refining Co.  
Dowell Inc.  
Earth Oil Co.  
Eastern Air Lines, Inc.  
Eddins Walcher  
N.D. Elder Investments  
Enterprize Distributing  
J.L. Evans Oil Co.  
E-Z Serve Inc.  
Federal Petroleum Co.  
Fleming Foods Company  
Flintkote Supply Co.  
Foremost Petroleum Co.  
Frayley Butane Co.  
Fuel Distributors Inc.  
Fred Garrison Oil Co.  
General Merchandise Dist.  
Gensco, Inc.  
Georgia Pacific  
Getty Oil Co.  
Golden West Oil Co.  
Steve Gose & Associates

Gulf States Oil & Ref. Co.  
Gulf States Asphalt Co.  
Don C. Griffin Texaco  
Gulf Butane Co.  
Gulf King Ice & Fuel  
Guthrie Oil Co.  
H & K Construction  
Handy Andy Garage  
Handi-Stop  
Harlow Oil Co.  
Hart Oil & Butane  
Harvest Oil Co.  
Harvard Oil Co.  
Havana Materials Inc.  
Jimmy Haverlah  
Healy Trucking Co.  
Heldenfels Bros.  
Helton Oil Co.  
Herder Truck Lines  
Sm Herschap Corp.  
Hebutt Grocery Co.  
Highway Pipeline Co.  
H & K Construction  
Holm Lease Service  
Holloway Sand & Gravel Co.  
HNG Products Co.  
Howell Hydrocarbons  
Hollon Oil Co.  
Hunter Petroleum  
Idalou Co-op Gin  
IEC Corp.  
Indian Oil Co.  
Industrial Lubricants Co.  
Jet Butane Service  
Homer Johnson Transport Co.  
Jones Oil Company  
H.A. Jones  
H.K. Kendrick Oil Co.  
Koch Chemicals  
Kroeger Equipment Co.  
Lamesa Butane  
H.W. Lemens, Inc.  
Liberty Co-op  
Charles Steven Lindholm  
Lindsey Oil Co.  
Littlefield Butane Co.  
Locke Construction Co.  
Lockey Oil Co.  
LCRA  
McDonough Brothers, Inc.  
Majbours & Sword  
Marshall Distributing Co.  
C.H. Martin Oil Co.  
Mathis Reynolds Sales  
Maverick Drilling Co.  
T. Morgan McCollum, Inc.  
R.C. McBride Oil Co.  
McMullen County ISD  
Midcoast Oil Sales  
Mission Petroleum  
Midtex Oil Co.  
Missouri Pacific Railroad  
F. Moore Oil Co.  
J.G. Moore Oil Co.  
Moore Industrial Disposal  
Nalco Chemical Co.  
National Oil & Butane  
National Stations Inc.  
Neal Inc.  
Neals Oil & Butane Co.  
John Newman Ranch  
Nu-Way Oil Co.  
Ocean Reef Inc.  
Odeen Hibbs Trucking Co.  
Oil Unlimited



Orange Grove Co-op  
 Pecos Tire and Fuel Co.  
 Periman Corp.  
 Petro Inc.  
 Petromax Chemical Exch.  
 Petro Truck Stop  
 Pfluger Oil Co.  
 Plainview Oil & Butane  
 Ploch Oil Co.  
 PMI Crude Gathering Co.  
 Primrose Oil Co.  
 Purolator Security  
 Ram Oil Corp.  
 Rasure Oil Co.  
 Red Arrow Frt Lines  
 Red McCombs Ford  
 Jim Reed 66 Oil Co.  
 Refinery Associates, Inc.  
 Refugio Oil & Gas Co.  
 Reliance Steel & Aluminum  
 Renken & Kuentz Transport  
 H. Richards Oil Co.  
 Royal Crown Bottle Co.  
 O.W. Rusche Oil Co.  
 Saber Refining Co.  
 Santos Oil Co.  
 Via Metropolitan Transit  
 San Miguel Elec. Co-op  
 Schaeffer Const. Co.  
 Ray Schlichting Oil Co.  
 Sherwood Oil Co.\*  
 Silver Butane Co.  
 Simmons Oil Co.  
 BA Smith Texaco  
 Southern Pacific Trans.  
 South Texas LFG Co.  
 Southland Petroleum Co.  
 Southern Oil Sales Co.  
 Southwest Airlines Co.  
 SW Oil of San Antonio  
 Southwestern Motor Trans.  
 Southwestern Refining Co.  
 Southwest Research  
 SW Bell Telephone Co.  
 Starr Gas Co.  
 Startex Petrol. Co.  
 Strocher & Son Inc.  
 Sunglo Inc.  
 Sun Chemical Products  
 Superior Pontiac  
 Susser Petroleum  
 Sweeny & Co.  
 B.E. Talley  
 Tech-Jet Inc.  
 Tesoro Petroleum Co.  
 Tesoro Refining Mkt Sup  
 Texas Energy Co.  
 Tenneco Oil Co.  
 Tolson Oil Co.  
 Texas Beverage Packers  
 Texas Fuel & Asphalt Co.  
 Texas Star Oil Co.  
 Three Rivers School Dist.  
 Tideport Petroleum Inc.  
 Tiemann Oil Company  
 Tiffany Brick Inc.  
 Tindol Petroleum Company  
 Tolson Oil Co.  
 Trainer Hale Inn  
 Transnitro Inc.  
 Travelers Construction  
 Triangle Refineries  
 Tyro Oil Corp.  
 Union Oil Co.  
 US Air  
 Valcap Inc.

Valero Energy Co.  
 Jim Wafer Petroleum Co.  
 W.J. Oil Company  
 Watco Tanks, Inc.  
 Weidebush & Co.  
 Wehman Inc.  
 White Mines  
 Westside Village  
 West Texas Gas Co.  
 Winter Garden Supply  
 Witco Corp.  
 Tom C. Womack Inc.  
 Tom C. Womack Inc.  
 Chas J. Wood Petro. Co., Inc.  
 Dean Wood Co.  
 John Yantis Co.  
 Yates Petroleum Co.  
 Tom Yates Petroleum Co.  
 York Oil Corporation  
 Young Brothers, Inc. Contr.  
 H.B. Zachery  
 Zaroco  
 Armour Oil Co.  
 Hercules Oil Co.

#### Appendix II—Sigmor Corporation

Case No. HEF-0581  
 Customers Addresses Unknown  
 Alamo Enterprises  
 Alamo Truck Service  
 Ameriglas Inc.  
 Anchor-Inland  
 Austin Baking Co.  
 Beyer Oil Co.  
 Bledsoe Aviation  
 Bobbitt Oil Co.  
 Brazos Construction  
 Burkette Dist. Co.  
 Capitalland & Livestock  
 Cargo, Inc.  
 Circle K Corp.  
 Coastal States Mkt. Inc.  
 Coastal Transport Co.  
 Delta Petroleum Products  
 DHG Distributing Co.  
 ETMF  
 Elder Oil Co.  
 Energy Petroleum Co.  
 Estex Energy Co.  
 Gulf States  
 Gulf States/Valero  
 W.R. Grace & Co.  
 Handy Andy  
 Halliburton Gas Co., Inc.  
 Hillman Oil Co.  
 Hydro-Carbon Trading  
 J & N Oil Co.  
 Lehmborg Oil Co.  
 ME Petroleum Co.  
 Milchem Inc.  
 Mitchell Oil Co.  
 Negley Truck Lines  
 Oils of Texas  
 Tesoro Petroleum Dist. Co.  
 Petroleum Trading & Trans.  
 Pioneer Construction  
 Rand Development  
 Refrigerated Transport Co.  
 S & P Transport Co.  
 Senco P.O. Box 3799  
 Six Flag Distributing Co.  
 South Central Oil Co.  
 South States Oil & Gas  
 Texas Fuel & Asphalt Co.  
 Texas Oil & Gas Co.  
 Thomason Oil Co.

United Distributors Co.  
 United Oil & Grease Inc.  
 G.E. Warren Trading Co.  
 White Oil Co.  
 H.B. Zachery  
 Paul Investment

[FR Doc. 86-7487 Filed 4-3-86; 8:45 am]

BILLING CODE 6450-01-M

#### Implementation of Special Refund Procedures

**AGENCY:** Office of Hearings and Appeals, Energy.

**ACTION:** Notice of Implementation of Special Refund Procedures.

**SUMMARY:** The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of \$81,016 obtained as a result of a consent order which the DOE entered into with Key Oil Company, Inc., a reseller-retailer of petroleum products located in Tuscaloosa, Alabama. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

**DATE AND ADDRESS:** Applications for refund of a portion of the Key, Inc. consent order funds must be filed in duplicate and must be received within 90 days of publication of this notice in the *Federal Register*. All applications should refer to Case Number HEF-0105 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Nancy L. Kestenbaum, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

#### SUPPLEMENTARY INFORMATION:

In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The decision relates to a consent order entered into by the DOE and Key Oil Company, Inc. which settled all claims and disputes between Key, Inc. and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period March 1, 1979, through December 31, 1979. A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Key, Inc. consent



order funds was issued on November 12, 1985. 50 FR 47817 (November 20, 1985).

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of an escrow account funded by Key, Inc. pursuant to the consent order. The DOE has decided to accept Applications for Refund from firms and individuals who purchased motor gasoline from Key, Inc. In order to receive a refund, a claimant must furnish the DOE with evidence which demonstrates that it was injured by Key, Inc.'s pricing practices. Applicants must submit specific documentation regarding the date, place, and volume of product purchased, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered. An applicant claiming \$5,000 or less, however, will be required to document only its purchase volumes.

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by customers who purchased motor gasoline from Key, Inc. during the consent order period. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the Federal Register. The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: March 26, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

## Decision and Order of the Department of Energy

### Implementation of Special Refund Procedures

Name of Firm: Key Oil Company, Inc.  
Date of Filing: October 13, 1983.  
Case Number: HEF-0105.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. See 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Key Oil Company, Inc. (Key, Inc.).

### I. Background

Key, Inc. is a "reseller-retailer" of motor gasoline as that term was defined

in 10 CFR 212.31 and is located in Tuscaloosa, Alabama. A DOE audit of Key, Inc.'s records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. The audit alleged that between March 1, 1979 and December 31, 1979, Key, Inc. overcharged its customers by \$69,650.94 in its sales of motor gasoline.

In order to settle all claims and disputes as to the firm's sales of motor gasoline during the audit period, Key, Inc. and the DOE entered into a consent order on September 18, 1981. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. The consent order also states that Key, Inc. does not admit to any violations of the regulations.

Under the terms of the consent order, Key, Inc. was required to deposit \$69,650.94, plus installment interest into an interest bearing escrow account for ultimate distribution by the DOE. The first payment was received on October 1, 1980 and the last on July 13, 1984.<sup>1</sup>

On November 12, 1985, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties that can make a reasonable demonstration of injury as a result of Key, Inc.'s alleged violations in its sales of motor gasoline during the consent order period. 50 FR 47,817 (November 20, 1985). The PD&O stated that the basic purpose of a special refund proceeding is to make restitution for injuries that were experienced as a result of actual or alleged violations of the DOE regulations.

In order to give notice to all potentially affected parties, a copy of the Proposed Decision was published in the Federal Register and comments regarding the proposed refund procedures were solicited. Copies were also sent to various service station dealers' associations. None of Key, Inc.'s customers submitted comments on the proposed procedures. Comments were submitted collectively on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia. These comments concern the distribution of any funds remaining after all refunds have been made to injured parties. However, the purpose of this Decision is to establish procedures for filing and processing claims in the first stage of the Key, Inc.

<sup>1</sup> The total consent order payment including installment interest amounted to \$81,016. We have used this figure as the principal amount. As of February 28, 1986, the escrow account contained \$115,995 including accrued interest.

refund proceeding. Any procedures pertaining to the disposition of any monies remaining after this first stage will necessarily depend on the size of the fund. See *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, we will not address the issues raised by the states at this time.

### II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who might have been injured by alleged overcharges or to ascertain readily the amount of any such injury. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will accept claims from identifiable purchasers of motor gasoline who may have been injured by Key, Inc.'s pricing practices during the consent order period, March 1, 1979 through December 31, 1979. If any funds remain after all meritorious first-stage claims have been paid, they may be distributed in a second-stage proceeding. See, e.g., *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

#### A. Refunds to Identifiable Purchasers

In the first stage of the Key, Inc. refund proceedings, we will distribute the funds currently in escrow to claimants who demonstrate that they were injured by Key, Inc.'s alleged overcharges. As we have done in many prior refund cases, we will adopt certain presumptions, which will be used to help determine the level of a purchaser's injury.

The use of presumptions in refund cases is specifically authorized by applicable DOE procedural regulations. The presumptions we will adopt in this case are designed to permit claimants to participate in the refund process at a reasonable cost, and to enable OHA to consider the refund applications in the most efficient way possible in view of its limited resources. First, we will presume that the alleged overcharges were dispersed evenly among all



products sold during the consent order period. This presumption has been referred to as a volumetric system. We will also adopt a presumption of injury with respect to small claims. Third, we are adopting a rebuttable presumption that spot purchasers were not injured by the alleged overcharges. As a separate matter, we find that ultimate consumers of Key, Inc. products were injured by Key, Inc.'s alleged pricing practices.

The pro rate, or volumetric, refund presumption assumes that alleged overcharges by a consent order firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable however. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. See e.g., *Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984), and cases cited therein at 88,164.

Under the volumetric system we are adopting, a claimant will be eligible to receive a refund equal to the number of gallons purchased from Key, Inc. times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals \$0.0288 per gallon.<sup>2</sup> In addition, successful claimants will receive a proportionate share of the accrued interest.

The second presumption we will use is that purchasers of Key, Inc.'s products seeking small refunds were injured by Key, Inc.'s pricing practices. There are a number of bases for such a presumption. See, e.g., *Urban Oil Co.*, 9 DOE ¶ 82,541 (1982). Firms which will be eligible for refunds were in the chain of distribution where the alleged overcharges occurred and therefore experienced some impact of the alleged overcharges. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost to OHA of analyzing it could easily exceed both the expected refund and the

benefits from any additional precision. Consequently, without some simplified procedures, some injured parties would be effectively denied an opportunity to receive a refund. This presumption eliminates the need for a claimant to submit and OHA to analyze extensive, detailed proof of what resulted from the initial impact of the alleged overcharges.

Under the small-claims presumption, a claimant that is a reseller or retailer will not be required to submit any additional evidence of injury beyond purchase volumes if it's refund claim is based on purchases below a certain level. Several factors determine the value of this threshold. One is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the refund amount is fairly low, \$5,000 is a reasonable value for the threshold. See *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein.

Unlike threshold claimants, an applicant which claims a refund in excess of \$5,000 will be required to document its injury. A reseller will be required to demonstrate that it maintained a "bank" of unrecovered product costs in order to show that it did not pass along the alleged overcharges to its own customers.<sup>3</sup> In addition, a reseller claimant must show that market conditions would not permit it to pass through those increased costs. See e.g., *Triton Oil and Gas Corporation/Cites Service Company*, 12 DOE ¶ 85,107 (1984); *Tenneco Oil Company/Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982).

Retailer claimants will be subject to a different requirement for demonstrating injury than that outlined above for reseller applicants. We believe a modification of the injury requirement for retailers is justified because during most of the Key, Inc. consent order period, specifically from July 16, 1979 to December 31, 1979, retailers of motor gasoline were not required to compute MLSPs with reference to May 15, 1973 selling prices and increased costs. See

10 CFR 212.93; 45 FR 29546 (1980). Instead, effective July 16, 1979, a retailer was required to calculate its MLSP under a fixed-margin approach set forth in the new rule. Unrecouped increased product costs could no longer be banked for later recovery. *Id.*

We note that retailer applicants in other refund proceedings are generally unable to claim refunds above the threshold amount if they cannot show the existence of banks of unrecouped product costs, since banks tend to prove that a firm absorbed rather than passed through its increased product costs. In this proceeding, however, for the periods after July 16, 1979 retailers may file refund claims for amounts exceeding \$5,000 without bank data since there was no banked cost requirement for these firms after that date.<sup>4</sup> These retailers must still provide bank calculations for the period March 1, 1979 through July 16, 1979. In addition, like resellers, these retailers must show that market conditions prevented them from recovering those increased costs. Indicators of a competitive disadvantage include a detailed description of lowered profit margins, decreased market shares, or depressed sales volumes.<sup>5</sup>

As in previous cases, only claims for at least \$15 will be processed. We have found through our experience in prior refund cases that the cost of processing claims for refunds of less than \$15 outweighs the benefits of restitution in those situations. See, e.g., *Urban Oil Co.*, 9 DOE at 85,255. See also 10 CFR 205.286(b). The same principle applies here.

#### B. Applications for Refund

We have determined that by using the procedures described above, we can distribute the Key, Inc. consent order funds as equitably and efficiently as possible. Accordingly, we will now accept applications for refunds from individuals and firms who purchased motor gasoline from Key, Inc. during the period March 1, 1979, through December 31, 1979.

<sup>2</sup> The cost bank requirement has been relaxed in other instances regarding the change in the pricing regulations for motor gasoline. See *Tenneco Oil Company/United Fuels Corporation*, 10 DOE ¶ 85,005 at 88,017 n.1 (1982) (*Tenneco*).

<sup>3</sup> Resellers or retailers who claim refund in excess of \$5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the \$5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to \$5,000. See *Vickers*, 8 DOE at 85,396. See also *Office of Enforcement*, 10 DOE ¶ 85,029 at 88,122 (1982) (*Ada*).

<sup>2</sup> This figure is derived by dividing the \$81,016 principal amount by the 2,808,541 gallons of products sold by Key, Inc. during the consent order period.

<sup>3</sup> This injury requirement reflects the nature of the petroleum price regulations in effect beginning on August 19, 1973, and ending on July 16, 1979 for retailers, and on May 1, 1980 for resellers. Under the original rules, a reseller or retailer of motor gasoline was required to calculate its maximum lawful selling price (MLSP) by summing its selling price on May 15, 1973 with increased costs incurred since that time. A firm which was unable to charge its MLSP in a particular month could "bank" any unrecovered increased product costs, so that those costs could be recouped in a later month, if possible. See 10 CFR 212.93; 45 FR 29546 (1980).



In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of motor gasoline from Key, Inc. Purchasers will be required to provide specific information as to the volume of motor gasoline purchased, the date of purchase, the name of the firm from which the purchase was made, and the extent of any injury alleged. Applicants should also provide all relevant information necessary to support their claim in accordance with the presumptions stated above.

In addition, all applications must state:

(1) Whether the applicant has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding;

(2) Whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund;

(3) Whether the applicant is or has been involved as a party in DOE enforcement or private, section 210 actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its application for refund is pending. See 10 CFR 205.9(d); and

(4) The name and telephone number of a person who may be contacted by this Office for additional information.

Finally, each application must include the following statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." See 10 CFR 205.283(c); 18 U.S.C. 1001. All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision and Order in the *Federal Register*. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the information has been deleted. All applications should refer to Case No. HEF-0105 and should be sent to: Office

of Hearings and Appeals, Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by Key Oil Company, Inc. pursuant to the consent order executed on September 18, 1981, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the *Federal Register*.

Dated: March 26, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-7485 Filed 4-3-86; 8:45 am]

BILLING CODE 6450-01-M

### Implementation of Special Refund Procedures

**AGENCY:** Office of Hearings and Appeals, Energy.

**ACTION:** Notice of Implementation of Special Refund Procedures.

**SUMMARY:** The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of \$6,275 obtained as a result of a consent order which the DOE entered into with Jimmy's Gas Stations, Inc., a reseller-retailer of petroleum products located in Auburn, Maine. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

**DATE AND ADDRESS:** Applications for refund of a portion of the Jimmy's consent order funds must be filed in duplicate and must be received within 90 days of publication of this notice in the *Federal Register*. All applications should refer to Case Number HEF-0102 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Nancy L. Kestenbaum, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

**SUPPLEMENTARY INFORMATION:** In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The decision relates to a consent order entered into by the DOE and Jimmy's Gas Stations, Inc. which settled all claims and disputes between

Jimmy's and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of No. 2 heating oil and diesel fuel during the period November 2, 1973, through May 4, 1974. A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Jimmy's consent order funds was issued on November 19, 1985. 50 FR 48636 (November 26, 1985).

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of an escrow account funded by Jimmy's pursuant to the consent order. The DOE has decided to accept Applications for Refund from firms and individuals who purchased No. 2 heating oil and diesel fuel from Jimmy's. In order to receive a refund, a claimant must furnish the DOE with evidence which demonstrates that it was injured by Jimmy's pricing practices. Applicants must submit specific documentation regarding the date, place, and volume of product purchased, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered. An applicant claiming \$5,000 or less, however, will be required to document only its purchase volumes.

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by customers who purchased No. 2 heating oil and diesel fuel from Jimmy's during the consent order period. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the *Federal Register*. The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: March 27, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

### Decision and Order of the Department of Energy

#### Implementation of Special Refund Procedures

**Name of Firm:** Jimmy's Gas Stations, Inc.

**Date of Filing:** October 13, 1983.

**Case Number:** HEF-0102.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of



an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. See 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Jimmy's Gas Stations, Inc. (Jimmy's).

### I. Background

Jimmy's is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in Auburn, Maine. A DOE audit of Jimmy's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. The audit alleged that between November 2, 1973 and May 4, 1974, Jimmy's overcharged by \$6,275 in its sales of No. 2 heating oil and diesel fuel.

In order to settle all claims and disputes as the firm's sales of No. 2 heating oil and diesel fuel during the audit period, Jimmy's and the DOE entered into a consent order on May 12, 1980. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. The consent order also states that Jimmy's does not admit to any violations of the regulations.

Under the terms of the consent order, Jimmy's was required to deposit \$6,275 into an interest bearing escrow account for ultimate distribution by the DOE. Jimmy's remitted this sum on August 25, 1981.<sup>1</sup>

On November 19, 1985, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties that can make a reasonable demonstration of injury as a result of Jimmy's alleged violations in its sales of No. 2 heating oil and diesel fuel during the consent order period. 50 FR 48,636 (November 26, 1985). The PD&O stated that the basic purpose of a special refund proceeding is to make restitution for injuries that were experienced as a result of actual or alleged violations of the DOE regulations.

In order to give notice to all potentially affected parties, a copy of the Proposed Decision was published in the *Federal Register* and comments regarding the proposed refund procedures were solicited. Copies were also sent to various service station dealers' associations. None of Jimmy's customers submitted comments on the

proposed procedures. Comments were submitted by the Office of Energy Resources of the State of Maine, and by A.D. Gray Junior High School of Waldoboro, Maine, however. Both of these comments concern the distribution of any funds remaining after all refunds have been made to injured parties. However, the purpose of this Decision is to establish procedures for filing and processing claims in the first stage of the Jimmy's refund proceeding. Any procedures pertaining to the disposition of any monies remaining after this first stage will necessarily depend on the size of the fund. See *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, we will not address the issues raised by these comments at this time.

### II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify those persons who might have been injured by the alleged overcharges or to readily ascertain the amount of any such injury. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (Vickers).

As in other Subpart V cases, we believe that this proceeding should consist of two stages. In the first stage, we will consider claims of identifiable purchasers of refined petroleum products that may have been injured by Jimmy's pricing practices during the consent order period, November 2, 1973 through May 4, 1974. After all meritorious first-stage claims have been paid, any remaining funds may be distributed in a second-stage proceeding. See, e.g., *Office of Special Counsel*, 10 DOE ¶ 84,048 (1982) (Amoco).

#### A. Refunds to Identifiable Purchasers

In the first stage of the Jimmy's refund proceeding, we will distribute the funds currently in escrow to claimants who demonstrate that they were injured by Jimmy's alleged overcharges. As we have done in the many prior refund cases, we will adopt certain presumptions, which will be used to help determine the level of a purchaser's injury.

The use of presumptions in refund cases is specifically authorized by applicable DOE procedural regulations.

The presumptions we will adopt in this case are used to permit claimants to participate in the refund process at a reasonable cost and will enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. First, we will presume that the alleged overcharges were dispersed evenly among all sales of products made during the consent order period. This presumption has been referred to as a volumetric system. We will also adopt a presumption of injury with respect to small claims. Third, we are adopting a rebuttal presumption that spot purchasers were not injured by the alleged overcharges. As a separate matter, we find that ultimate consumers of Jimmy's products were injured by Jimmy's pricing practices.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges by a consent order firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant that believes that it bore a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. See *Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984), and cases cited therein at 88,164.

Under the volumetric system, a claimant will be eligible to receive a refund equal to the number of gallons purchased from Jimmy's times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals \$0.0060 per gallon.<sup>2</sup> In addition, successful claimants will receive a proportionate share of the accrued interest.

The second presumption will use is that claimants seeking small refunds were injured by Jimmy's alleged pricing practices. There are a number of bases for such a presumption. See, e.g., *Urban Oil Co.*, 9 DOE ¶ 82,541 (1982). Firms which will be eligible for refunds were in the chain of distribution where the alleged overcharges occurred and therefore experienced some impact of the alleged overcharges. Under the small-claims presumption, a reseller or

<sup>1</sup> As of February 28, 1986, the Jimmy's escrow account contained \$10,682, including accrued interest.

<sup>2</sup> This figure is derived by dividing the \$6,275 settlement amount by the 1,044,836 gallons of products sold by Jimmy's during the consent order period.



retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain threshold level.<sup>3</sup>

As noted, we find that end user—or ultimate consumer—purchasers whose business operations are unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. See *Office of Enforcement*, 10 DOE ¶ 85,072 (1983) (PVM); see also *Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. Therefore, to prove injury, ultimate consumers must dominate only their purchase volumes.

As in previous cases, only claims for at least \$15 will be processed. We have found through our experience in prior refund cases that the cost of processing claims for refunds of less than \$15 outweighs the benefits of restitution in those situations. See, e.g., *Urban Oil Co.*, 9 DOE at 85,225. See also 10 CFR 205.286(b). The same principle applies here.

#### B. Applications for Refund

We have determined that by using the procedures described above, we can distribute the Jimmy's consent order funds as equitably and efficiently as possible. Accordingly, we will now accept applications for refunds from individuals and firms who purchased No. 2 heating oil and diesel fuel from Jimmy's during the period November 2, 1973, through May 4, 1974.

In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of petroleum products from Jimmy's. Purchasers will be required to provide specific information as to the volume of No. 2 heating oil and diesel fuel purchased, the date of purchase, the name of the firm from which the purchase was made, and the extent of

any injury alleged. Applicants should also provide all relevant information necessary to support their claim in accordance with the presumptions stated above.

In addition, all applications must state:

(1) Whether the applicant has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding;

(2) Whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund;

(3) Whether the applicant is or has been involved as a party in DOE enforcement or private, 210 actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its application for refund is pending. See 10 CFR 205.9(d); and

(4) the name and telephone number of a person who may be contacted by this Office for additional information.

Finally, each application must include the following statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." See 10 CFR 205.283(c); 18 U.S.C. 1001. All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision and Order in the Federal Register. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the information has been deleted. All applications should refer to Case No. HEF-0102 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

#### It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by Jimmy's Gas Stations, Inc. pursuant to the consent order executed on May 12, 1980, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Dated: March 27, 1986.

George B. Breznay

Director, Office of Hearings and Appeals.

FR Doc. 86-7486 Filed 4-3-86; 8:45 am]

BILLING CODE 6450-01-M

#### Southeastern Power Administration

##### Power Rates; Proposed Rate Adjustment, Public Hearing, and Opportunities for Public Review and Comment

**AGENCY:** Southeastern Power Administration (Southeastern), DOE.

**ACTION:** Notice of proposed rate adjustment for Kerr-Philpott System, notice of public hearing and opportunity for review and comment.

**SUMMARY:** Southeastern proposes to extend Rate Schedules KP-1-C and JHK-1-E, currently applicable to Kerr-Philpott Projects power, and seek approval of an additional schedule PH-1-A, for a 5 year period, October 1, 1986, through September 30, 1991.

Opportunities will be available for interested persons to review the present rates, the proposed rates and supporting studies, to participate in a hearing and to submit written comments.

Southeastern will evaluate all comments received in this process.

**DATES:** Written comments are due on or before July 14, 1986. A public information and public comment forum will be held in South Hill, Virginia, on May 20, 1986. Persons desiring to speak at the forum must notify Southeastern at least 7 days before the forum is scheduled so that a list of forum participants can be prepared. Others present may speak if time permits. Persons desiring to attend the forum should notify Southeastern at least 7 days before the forum is scheduled. If Southeastern has not been notified by close of business on May 13, 1986, that at least one person intends to be present at the forum, the forum will be automatically canceled with no further notice.

**ADDRESSES:** Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public comment forum will begin at 10 a.m. on May 20, 1986, in the Holiday Inn, Atlantic Street, South Hill, Virginia 23970.

<sup>3</sup> Due to the relatively small size of the escrow account, we will not include a detailed discussion of the threshold amount here. The usual standards for claims in excess of this \$5,000 threshold are applicable here, however. For a more detailed discussion of these standards, see *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (Conoco), and cases cited therein.



**FOR FURTHER INFORMATION CONTACT:**

Leon Jourlmon, Jr., Director, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-3261.

**SUPPLEMENTARY INFORMATION:** The Federal Power Commission by order issued July 6, 1983, in Docket No. EF83-3041-000, confirmed and approved Wholesale Power Rate Schedules KP-1-C, and JHK-1-E applicable to Kerr-Philpott Projects' power for a period ending September 30, 1986.

**Discussion**

Existing rate schedules are predicated upon a January 1983 repayment study and other supporting data all of which are contained in EF83-3041-000. The repayment study prepared in January of 1983 included a 22 percent increase on the demand charge and a 25 percent increase on the energy charge. The wheeling rates for preference customers served by VEPCO was \$1.74 per month and \$1.99 per month for preference customers served by CP&L.

A March 1986 repayment study prepared using present rates demonstrates that all costs are paid within their repayment life. Therefore, Southeastern is proposing to extend two present rate schedules and establish a third rate schedule for new customers in the Appalachian Power Company area.

The increased costs attributable to wheeling costs are automatically escalated by present rate schedules. The increase which is due to escalated operation and maintenance and increased replacement costs at the generating projects is offset by the decreased amortization and interest costs which are caused by delays in replacement of major items.

Present rate schedules allow for the preference customers' wheeling charge to be the same charge that the investor-owned utility which serves the preference customers charges Southeastern. The initial wheeling rate for preference customers of the Government served by Virginia Electric and Power Company will be \$1.97 per kilowatt per month. The initial wheeling rate for preference customers served by Carolina Power and Light Company will be \$2.19 per kilowatt per month. The initial wheeling rate for preference customers served by Appalachian Power Company has not been finally determined at this time but is currently estimated to be \$2.06 per kilowatt per month. The exact rate will be included in the final rate schedule when rates are submitted to the Deputy Secretary for interim approval. The proposed rate

schedules state that wheeling charges will be subject to automatic future increases to pass Southeastern's increased wheeling cost from the investor-owned utility to the appropriate preference customers.

The demand charge applicable to preference customers remains at the \$1.52 per kilowatt of monthly demand and the energy charge remains at 6.25 mills per kilowatt-hour.

The referenced March 1986 system repayment study along with previous system repayment studies are available for examination at the Samuel Elbert Building, Elberton, Georgia 30635. Proposed Rate Schedules KP-1-C, JHK-1-E, and PH-1-A are also available.

Issued at Elberton, Georgia, March 24, 1986.  
Harry C. Geisinger,  
Administrator.  
[FR Doc. 86-7482 Filed 4-3-86; 8:45 am]  
BILLING CODE 6450-01-M

**ENVIRONMENTAL PROTECTION AGENCY****[ER-FRL-2997-3]****Environmental Impact Statements and Regulations: Availability of EPA Comments**

Availability of EPA comments prepared March 17, 1986 through March 21, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

**Draft EISs**

ERP No. D-AFS-P65016-MI, Rating EC2, Ottawa Nat'l Forest, Land and Resource Mgmt. Plan, MI. SUMMARY: EPA's review concluded that the water quality impacts of the preferred alternative were not adequately discussed. We recommended that existing and expected water quality conditions be examined in much greater detail. Concerns associated with air quality and noise impacts were also identified.

**Final EISs**

ERP No. F-BLM-J03009-00, Bairoil/Dakota Carbon Dioxide Projects, Right-of-Way Grants and Issuance of Permits, 404 Permit, WY, MT, ND, and SD. Summary: Responses to EPA's concerns

are satisfactory and EPA has no objections to the project.

**Regulations**

ERP No. R-DOI-A20022-00, 43 CFR Part II, Assessment of Natural Resources Damaged by Oil Discharge or Hazardous Substance Release (50 FR 52126. SUMMARY: To improve the regulation, EPA suggests that: (1) The regulations provide specific guidance to establish restoration costs and identified categories of costs which would be acceptable in the restoration methodology for each phase at the damage assessment; (2) the requirement to meet all four acceptance criteria for determining injury to biological resources may be excessively rigorous; (3) the willingness-to-pay measures be used rather than the willingness-to-accept measures; and (4) the preamble clarify how the assessment process will comply with

Dated: April 1, 1986.  
Allan Hirsch,  
Director, Office of Federal Activities.  
[FR Doc. 86-7530 Filed 4-3-86; 8:45 am]  
BILLING CODE 6560-50-M

**[ER-FRL-2997-2]****Environmental Impact Statements; Notice of Availability**

**Responsible Agency:** Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements filed March 24, 1986 Through March 28, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860117, Draft, AFS, MT, Lewis and Clark National Forest, 1986-1990 Noxious Weed Control Program, Due: May 19, 1986, Contact: H. Wayne Phillips (406) 727-0901.

EIS No. 860118, Draft, OSM, WA, Black Diamond Petition Area, Designation of Lands Unsuitable for Surface Coal Mining Operations, King County, Due: May 20, 1986, Contact: Duane Gentz (303) 844-2451.

EIS No. 860119, Final, SCS, LA, Mill Haven Watershed Protection, Flood Prevention and Drainage Plan, Richland and Ouachita Parishes, Due: May 5, 1986, Contact: Harry Rucker (318) 473-7751.

EIS No. 860120, Draft, IBR, CA, Westland Water District, Drainage Disposal Project, West San Joaquin Division, Central Valley Project, Fresno and Kings Counties, Due: May 23, 1986, Contact: Alan Solbert (916) 978-5130.

EIS No. 860121, Draft, SCS, LA, Upper Vermilion Bayou Watershed



Protection, Flood Prevention and Drainage Plan, Lafayette, St. Martin, and Iberia Parishes, Due: May 19, 1986, Contact: Horace Austin (318) 473-7751.

EIS No. 860122, Final, COE, KY, IL, Lower Ohio River Navigation Improvements, Cumberland River to Mississippi River, Due: May 5, 1986, Contact: David Weyer (502) 582-5641.

EIS No. 860123, Draft, COE, CA, Lighthouse Marina Residential and Commercial Development, Construction and Operation, Yolo County, Due: May 19, 1986, Contact: Tom Coe (916) 551-2270.

EIS No. 860124, Draft, DOE, SC, Savannah River Plant Alternative Cooling Water Systems for C- and K-Reactors and D-Area Powerhouse, Construction and Operation, Aiken, Barnwell, and Allendale Cos., Due: May 19, 1986, Contact: R.P. Whitfield (803) 725-3957.

#### Amended Notices

EIS No. 820700, Draft, AFS, OR, Deschutes National Forest, Land and Resource Management Plan, Published FR 11-5-82—OFFICIALLY WITHDRAWN.

EIS No. 820548, Draft, AFS, WA, Okanogan National Forest, Land and Resource Management Plan, Published FR 8-27-82—OFFICIALLY WITHDRAWN.

EIS No. 860102, Draft, OSM, TN, Rock Creek Watershed, Designation for Lands Unsuitable for Surface Coal Mining Operation, Hamilton and Bledsoe Cos., Due: May 19, 1986, Published FR 3-21-86—Review period extended.

Dated: April 1, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-7529 Filed 4-3-86; 8:45 am]

BILLING CODE 5560-50-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on March 28, 1986.

### Social Security Administration

(Call 301-594-5706 for copies of packages)

Subject: Medical Report—General—Extension—(0960-0052)

Respondents: Small businesses or organizations

Subject: Regulations Regarding Adjustment of Federal Share for Uncashed or Cancelled Checks—Extension—(0960-0333)

Respondents: State of local governments

Subject: 1986 Survey of Aged or Disabled Individuals—Revision—(0960-0389)

Respondents: Individuals or households  
OMB Desk Officer: Judy A. McIntosh

### Public Health Service

(Call 202-245-2100 for copies of packages)

### Food and Drug Administration

Subject: Cosmetic Raw Material Composition Statement—Extension—(0910-0031)

Respondents: Businesses; Small businesses

Subject: Cosmetic Product Experience Reports—Extension—(0910-0047)

Respondents: Businesses; Small businesses

### Office of the Assistant Secretary for Health

Subject: National Children and Youth Fitness Study II—New

Respondents: Individuals or households  
OMB Desk Officer: Bruce Artim

### Health Care Financing Administration

(Call 301-594-8650 for copies of packages)

Subject: Survey of Hospital Decision-Makers on the Impacts of Medicare's Prospective Payment System—New  
Respondents: Businesses or other for-profit; Non-profit institutions

Subject: The Long Term Care Request for Certification—Revision—(0938-0062)

Respondents: Businesses or other for-profit.

Subject: Contractor Information Collections—Regional Office Collateral Contracts (Medicaid Eligibility Quality—Revision—(0938-0203)

Respondents: State or local governments; Non-profit institutions  
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed

information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503

ATTN: (name of OMB Desk Officer)

Dated: March 28, 1986.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-7387 Filed 4-3-86; 8:45 am]

BILLING CODE 4150-04-M

## Organization, Functions, and Authority Delegations; Family Support Administration

Under the authority of section 6 of Reorganization Plan No. 1 of 1953 and pursuant to the authorities vested in me as Secretary of Health and Human Services, I hereby order organizational changes in the Department of Health and Human Services as follows:

### I. Organization

#### A. Family Support Administration

The Family Support Administration is established as an Operating Division of the Department. The following units are transferred to the Family Support Administration:

1. The Office of Family Assistance from the Social Security Administration
2. The Office of Refugee Resettlement from the Social Security Administration
3. The Office of Child Support Enforcement
4. The Office of Community Services
5. The Work Incentive Program from the Office of the Assistant Secretary for Human Development Services
6. Such other organizational units, or portions thereof, which provide support to the units listed above, as determined hereafter by the Assistant Secretary for Management and Budget. Until such determination has been made and implemented, support for the Family Support Administration shall be provided by the organizations currently providing such support to the units transferred under this order.

#### B. Office of Child Support Enforcement

The Office of Child Support Enforcement, a separate unit within the Department, shall remain a separate organizational unit, and the Administrator of the Family Support Administration shall be its director.



### C. Office of Community Services

The Office of Community Service, a separate unit within the Department, is transferred to the Family Support Administration.

### II. Continuation of Regulations

Except as inconsistent with this Reorganization Order, all regulations, rules, orders, statements of policy and interpretations with respect to the Social Security Administration, the Office of Child Support Enforcement, the Office for Human Development Services, and the Office of Community Services heretofore issued and in effect prior to the date of this Reorganization Order, or to become effective subsequent to said date, are continued in full force and effect.

### III. Prior Statements of Organization, Functions, and Delegations of Authority

A. To the extent inconsistent with this Reorganization Order, all previous statements of organizations, functions and delegations of authority, as well as applicable present chapters of the Department's Organization Manual, are hereby superceded by this Reorganization Order, except that pending further redelegation, all delegations to the Commissioner of Social Security pertaining to the Office of Family Assistance and the Office of Refugee Resettlement, to the Assistant Secretary for Human Development Services pertaining to the Work Incentive Program, and to the Director, Office of Community Services are vested with the Administrator, Family Support Administration, with authority to redelegate, consistent with this Reorganization Order and the provisions of the respective delegations.

B. All redelegations of authorities made to the heads of the organizational units transferred by this Reorganization Order and to any other officer or employee of the Department of Health and Human Services and all further redelegations of such authorities in effect immediately prior to the effective date of this Reorganization Order shall continue in effect pending further redelegation.

### IV. Funds, Personnel and Equipment

Transfer of organizations and functions effected by this Order shall be accompanied in each instance by direct and supporting funds, positions, personnel, records, equipment, supplies and other resources.

Effective date: This Reorganization Order shall be effective April 1, 1986.

Dated: March 31, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-7466 Filed 4-3-86; 8:45 am]

BILLING CODE 4150-04-M

### Food and Drug Administration

[Docket No. 85D-0006]

#### Guideline for Preparing Notices of Availability of Investigational Medical Devices; Availability

**AGENCY:** Food and Drug Administration.  
**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a guideline entitled "Guideline for Preparing Notices of Availability of Investigational Medical Devices" prepared by FDA's Center for Devices and Radiological Health. The guideline describes ways acceptable to FDA in which sponsors of clinical investigations may prepare and disseminate notices, mailings, exhibits, or oral presentations to inform potential clinical investigators of the availability of an investigational device. The guideline also identifies appropriate information to be included in such notices.

**ADDRESSES:** Written comments are to be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Single copies of the guideline may be obtained by submitting a written request to the contact person listed below.

**FOR FURTHER INFORMATION CONTACT:** Dean A. Barlow, Center for Devices and Radiological Health (HFZ-323), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8040.

**SUPPLEMENTARY INFORMATION:** FDA's regulations governing investigational device exemptions (21 CFR Part 812) and investigational device exemptions for intraocular lenses (21 CFR Part 813) set forth the procedures and conditions under which a medical device may be exempt from certain requirements of the Federal Food, Drug, and Cosmetic Act (the act) to permit investigational use of the device by experts qualified to investigate the safety and effectiveness of devices (section 520(g) of the act (21 U.S.C. 360j(g))). An investigational device is a device that is the object of a clinical investigation or research involving one or more human subjects to determine the safety or effectiveness of the device. Although a sponsor of an investigational device is prohibited by

§§ 812.7 and 813.50 of FDA's regulations from "promoting" an investigational device, the agency recognizes that most sponsors need to obtain investigators under whose immediate direction the device is to be administered or dispensed to, or used involving, a human subject. To obtain investigators, sponsors of investigational devices variously place notices in health professional publications, send letters to potential investigators, or, through exhibits or oral presentations at professional meetings, announce the availability of investigational devices.

FDA is making available to interested persons a guideline describing the kinds of information that FDA considers appropriate for including in such notices, letters, exhibits, or presentations, as well as information that FDA believes violates §§ 812.7 and 813.50. The guideline, entitled "Guideline for Preparing Notices of Availability of Investigational Medical Devices," was prepared by FDA's Center for Devices and Radiological Health and is being made available under § 10.90(b) of FDA's administrative practices and procedures regulations (21 CFR 10.90(b)). Section 10.90(b) provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to FDA. As provided in § 10.90(b)(1)(i), sponsors who follow the guideline may be assured that their notices will not violate § 812.7 or § 813.50.

A copy of the guideline is on file in the Dockets Management Branch (address above), under the docket number found in brackets in the heading of this document, and is available for examination by interested persons between 9 a.m. and 4 p.m., Monday through Friday. Written requests for single copies of the guideline may be submitted to Dean A. Barlow, Center for Devices and Radiological Health (HFZ-323), at the address above.

Interested persons may at any time submit to the Dockets Management Branch (ADDRESS above) written comments regarding the guideline. Such comments will be considered in determining whether amendments to or revisions of the guideline are warranted. Comments are to be in two copies (except that individuals may submit single copies) identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.



Dated: March 28, 1986.

M.D. Kinslow,

Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 86-7457 Filed 4-3-86; 8:45 am]

BILLING CODE 4160-01-M

## Health Care Financing Administration

### Privacy Act of 1974; Proposed Amendment to Systems of Records

**AGENCY:** Health Care Financing  
Administration, HHS.

**ACTION:** Notice of proposed new routine  
use for existing systems of records.

**SUMMARY:** The Health Care Financing  
Administration (HCFA) is amending  
systems notices for (1) Carrier Medicare  
Claims Records, HHS/HCFA/BPO No.  
09-70-0501; (2) Health Insurance Master  
Record, HHS/HCFA/BPO No. 09-70-  
0502; and (3) Intermediary Medicare  
Claims Records, HHS/HCFA/BPO No.  
09-70-0503, to add a new routine use  
which will enhance our capability for  
identifying Medicare secondary payer  
situations where Medicare can assume a  
position of reduced liability due to the  
presence of other insurers.

**EFFECTIVE DATES:** The proposed new  
routine use shall take without further  
notice on or before May 5, 1986, unless  
comments received on or before that  
date cause a contrary decision. If, based  
upon our review of comments received,  
changes are made, we will publish a  
new final notice.

**ADDRESS:** Please address comments to:  
Richard A. Demeo, HCFA Privacy Act  
Officer, Health Care Financing  
Administration, G-A-1 East Low Rise  
Building, 6325 Security Boulevard,  
Baltimore, Maryland 21207. We will  
make comments received available for  
inspection at this location.

**FOR FURTHER INFORMATION CONTACT:**  
Gale Held, Division of Operational  
Initiatives, 367 Meadows East Building,  
6325 Security Boulevard, Baltimore,  
Maryland 21207, Telephone (301) 594-  
9101.

**SUPPLEMENTARY INFORMATION:** The  
notice for the Carrier Medicare Claims  
Records, HHS/HCFA/BPO No. 09-70-  
0501, was most recently published at 48  
FR 31092; July 6, 1983; the Health  
Insurance Master Record, HHS/HCFA/  
BPO No. 09-70-0502, was most recently  
published at 47 FR 45719; October 13,  
1982; and the Intermediary Medicare  
Claims Records, No. 09-70-0503, most  
recently published at 48 FR 31092; July 6,  
1983. System notice No. 09-70-0501,  
Carrier Medicare Claims Records,

contains records of beneficiaries who  
have submitted claims for  
Supplementary Medical Insurance  
Benefits (Medicare Part B); system  
notice No. 09-70-0502, Health Insurance  
Master Record contains a record of each  
individual who is, or has been, entitled  
to health insurance benefits under title  
XVIII of the Social Security Act; and  
system notice No. 09-70-0503,  
Intermediary Medicare Claims Records  
contain records of beneficiaries on  
whose behalf providers have submitted  
claims for reimbursement on a  
reasonable cost basis under Medicare  
Parts A and B. Data in these files are  
used to administer the Medicare  
program and for research and statistical  
purposes. Please note that the categories  
of individuals and records in each  
system remain unchanged.

The Privacy Act allows us to disclose  
information routinely without an  
individual's consent if the information is  
to be used for a purpose which is  
compatible with the purpose for which  
the information was collected. We  
disclose information for "routine uses"  
when it is necessary to carry out our  
programs. We may also routinely  
disclose information to other Federal,  
State, local or private agencies or  
individuals for purposes that are  
compatible with the purpose of our  
programs when the benefit of the  
proposed use outweighs the effect, or  
risk of an effect, on the privacy of  
individuals.

The passage of the Omnibus  
Reconciliation Act of 1980, the Omnibus  
Budget Reconciliation Act of 1981, the  
Tax Equity and Fiscal Responsibility  
Act of 1982, and the Deficit Reduction  
Act of 1984, all amended title XVIII  
(Section 1862(b)) of the Social Security  
Act to specify circumstances under  
which the Medicare program no longer  
has primary liability for the medical  
expenses an individual incurs. It has,  
therefore, become essential for  
Medicare to be able to identify those  
Medicare beneficiaries who have other  
insurance coverage and to demonstrate  
to the other involved insurer their  
primary liability. To accomplish this it is  
necessary to release to insurance  
companies, self-insurers, Health  
Maintenance Organizations, Multiple  
Employer Trusts and other comparable  
groups providing protection against  
medical expenses, confirmation of the  
beneficiary's enrollment in Medicare  
and the effective date of that enrollment.

To comply with the technical  
requirements of the Privacy Act, HCFA  
is proposing to amend three systems of

records by adding a new routine use to  
each. The affected systems of records  
and proposed routine use for each  
system is as follows:

(1) No. 09-70-0501 (Routine use No.  
21).

(2) No. 09-70-0502 (Routine use No.  
11).

(3) No. 09-70-0503 (Routine use No.  
19).

To insurance companies, self-insurers,  
Health Maintenance Organizations,  
Multiple Employer Trusts and other  
comparable groups providing protection  
against medical expenses incurred by  
their enrollees. Information to be  
disclosed shall be limited to Medicare  
entitlement data. In order to receive this  
information the entity must agree to the  
following conditions:

a. To certify that the individual about  
whom the information is being  
requested is one of its insureds;

b. To utilize the information solely for  
the purpose of processing the identified  
individual's insurance claim(s); and

c. To safeguard the confidentiality of  
the data and to prevent unauthorized  
access to it.

The new routine use is compatible  
with the purposes for which the  
information is collected. Providing  
insuring organizations with information  
concerning the Medicare status of their  
insureds will serve to effectuate the  
proper implementation of the various  
Medicare secondary payer provisions of  
the Social Security Act and to realize  
the substantial program savings  
envisioned by Congress with their  
passage. This can be accomplished with  
no reduction in beneficiaries' privacy  
because provision of this information is  
already a general condition of payment  
in the insurance industry and also the  
recipient organization will agree in  
writing to protect the data from  
unauthorized access.

In addition, the existing routine use  
disclosure statement for litigation  
purposes is being revised to incorporate  
the clarification on such disclosures  
prescribed by the Executive Office of  
Management and Budget in its  
supplementary guidelines dated May 24,  
1985, for implementing the Privacy Act.

This action does not require a report  
of altered system under 5 U.S.C. 552a(o).  
We are publishing below the system  
notices in their entirety, with the  
proposed changes incorporated. We are  
also making minor editorial changes  
throughout each notice to enhance  
clarity and specificity.



Dated: March 26, 1986.

Henry R. Desmarais,  
Acting Administrator, Health Care Financing  
Administration.

09-70-0501

**SYSTEM NAMES:**

Carrier Medicare Claims Records,  
HHS, HCFA, BPO.

**SECURITY CLASSIFICATIONS:**

None.

**SYSTEM LOCATION:**

Carriers under contract to the Health  
Care Financing Administration and the  
Social Security Administration (see  
Appendix A, Section 4.)

Federal Records Centers,

Bureau of Quality Control, HCFA,  
Office of Systems Analysis, 6325  
Security Boulevard, Baltimore,  
Maryland 21207

HHS Parklawn Computer Center, 5600  
Fishers Lane, Rockville, Maryland 20857.

**CATEGORIES OF INDIVIDUALS COVERED BY THE  
SYSTEM:**

Beneficiaries who have submitted  
claims for Supplementary Medical  
Insurance (Medicare Part B), or are  
eligible, or individuals whose enrollment  
in an employer group health benefits  
plan covers the beneficiary.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Request for Payment; Provider Billing  
for Patient services by Physician;  
Prepayment Plan for Group Medicare  
Practices dealing through a Carrier,  
Health Insurance Claim Form, Request  
for Medical Payment, Patient's Request  
for Medicare Payment, Request for  
Medicare Payment—Ambulance,  
Explanation of Benefits, Summary  
Payment Voucher, Request for Claim  
Number Verification; Payment Record  
Transmittal; Statement of Person  
Regarding Medicare Payment for  
Medical Services Furnished Deceased  
Patient; Report of Prior Period of  
Entitlement; itemized bills and other  
similar documents from beneficiaries  
required to support payments to  
beneficiaries and to physicians and  
other suppliers of part B Medicare  
services; Medicare secondary payer  
records containing other party liability  
insurance information necessary for  
appropriate Medicare claim payment.

**AUTHORITY FOR MAINTENANCE OF THE  
SYSTEM:**

Sections 1842, 1862(b) and 1874 of title  
XVIII of the Social Security Act (42  
U.S.C. 1395u, 1395y(b) and 1395kk).

**PURPOSE:**

To properly pay medical insurance  
benefits to or on behalf of entitled  
beneficiaries.

**ROUTINE USES OF RECORDS MAINTAINED IN  
THE SYSTEM, INCLUDING CATEGORIES OF  
USERS AND THE PURPOSES OF SUCH USES:**

Disclosure may be made to: (1)  
Claimants, their authorized  
representatives or representatives  
payees to the extent necessary to pursue  
claims made under Title XVIII of the  
Social Security Act (Medicare).

(2) Third-party contacts (without the  
consent of the individuals to whom the  
information pertains) in situations  
where the party to be contacted has, or  
is expected to have information relating  
to the individual's capability to manage  
his or her affairs or to his or her  
eligibility for or entitlement to benefits  
under the Medicare program when:

(a) The individual is unable to provide  
the information being sought (an  
individual is considered to be unable to  
provide certain types of information  
when any of the following conditions  
exist: individual is incapable or of  
questionable mental capability, cannot  
read or write, cannot afford the cost of  
obtaining the information, a language  
barrier exists, or the custodian of the  
information will not, as a matter of  
policy, provide it to the individual), or

(b) The data are needed to establish  
the validity of evidence or to verify the  
accuracy of information presented by  
the individual, and it concerns one or  
more of the following: the individual's  
eligibility to benefits under the Medicare  
program; the amount of reimbursement;  
any case in which the evidence is being  
reviewed as a result of suspected abuse  
or fraud, concern for program integrity,  
or for quality appraisal, or evaluation  
and measurement of system activities.

(3) Third-party contacts where  
necessary to establish or verify  
information provided by representative  
payees or payee applicants.

(4) The Treasury Department for  
investigating alleged theft, forgery, or  
unlawful negotiation of Medicare  
reimbursement checks.

(5) The U.S. Postal Service for  
investigating alleged forgery or theft of  
Medicare checks.

(6) The Department of Justice for  
investigating and prosecuting violations  
of the Social Security Act to which  
criminal penalties attach, or other  
criminal statutes as they pertain to the  
Social Security Act programs, for  
representing the Secretary, and for  
investigating issues of fraud by agency  
officers or employees, or violation of  
civil rights.

(7) The Railroad Retirement Board for  
administering provisions of the Railroad  
Retirement and Social Security Acts  
relating to railroad employment.

(8) Professional Review Organizations  
in connection with their review of  
claims, or in connection with studies or  
other review activities, conducted  
pursuant to Part B of Title XI of the  
Social Security Act.

(9) State Licensing Boards for review  
of unethical practices of nonprofessional  
conduct.

(10) Providers and suppliers of  
services (and their authorized billing  
agents) directly or dealing through fiscal  
intermediaries or carriers, for  
administration of provisions of title  
XVIII.

(11) An individual or organization for  
a research, evaluation, or  
epidemiological project related to the  
prevention of disease or disability, or  
the restoration or maintenance of health  
if HCFA:

a. Determines that the use or  
disclosure does not violate legal  
limitations under which the record was  
provided, collected, or obtained:

b. Determines that the purpose for  
which the disclosure is to be made:

(1) Cannot be reasonably  
accomplished unless the record is  
provided in individually identifiable  
form.

(2) Is of sufficient importance to  
warrant the effect and/or risk on the  
privacy of the individual that additional  
exposure of the record might bring, and

(3) There is reasonable probability  
that the objective for the use would be  
accomplished:

(c) Requires the information recipient  
to:

(1) Establish reasonable  
administrative, technical, and physical  
safeguards to prevent unauthorized use  
or disclosure of the record, and

(2) Remove or destroy the information  
that allows the individual to be  
identified at the earliest time at which  
removal or destruction can be  
accomplished consistent with the  
purpose of the project, unless the  
recipient presents an adequate  
justification of a research or health  
nature for retaining such information, and

(3) Make no further use or disclosure  
of the record except:

(a) In emergency circumstances  
affecting the health or safety of any  
individual.

(b) For use in another research  
project, under these same conditions,  
and with written authorization of HCFA.

(c) For disclosure to a properly  
identified person for the purpose of



audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law:

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

(12) State welfare departments pursuant to agreements with the Department of Health and Human Services for administration of State supplementation payments for determinations of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under section 1843 of the Social Security Act, for quality control studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(13) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(14) State audit agencies in connection with the audit of Medicare eligibility considerations. Disclosures of physicians' customary charge data are made to State audit agencies in order to ascertain the correctness of Title XIX charges and payments.

(15) The Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components,

is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

(16) Peer review groups, consisting of members of State, County, or local medical societies or medical care foundations (physicians), appointed by

the medical society or foundation at the request of the carrier to assist in the resolution of questions of medical necessity, utilization of particular procedures or practices, or overutilization of services with respect to Medicare claims submitted to the carrier.

(17) Physicians and other supplies of services who are attempting to validate individual items on which the amounts included in the annual Physician/Supplier Payment List or similar publications are based.

(18) Senior citizen volunteers working in intermediaries' and carriers' offices to assist Medicare beneficiaries in response to beneficiaries' requests for assistance.

(19) A contractor working with Medicare carriers/intermediaries to identify and recover erroneous Medicare payments for which workers' compensation programs are liable.

(20) State and other governmental Workers' Compensation Agencies working with the Health Care Financing Administration to assure that workers' compensation payments are made where Medicare has erroneously paid and workers' compensation programs are liable.

(21) Release information, without the beneficiary's authorization, to insurance companies, self-insurers, Health Maintenance Organizations, multiple employer trusts and other groups providing protection against medical expenses of their enrollees. Information to be disclosed shall be limited to Medicare entitlements data. In order to receive this information the entity must agree to the following conditions:

a. To certify that the individual on whom the information is being provided is one of its insureds;

b. To utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. To safeguard the confidentiality of the data and to prevent unauthorized access to it.

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

##### **STORAGE:**

Records maintained on paper, tape, disc, and punchcards.

##### **RETRIEVABILITY:**

System is indexed by health insurance claim number. The record is prepared by the beneficiary and is used by carriers to determine amount of Part B benefits. The bills are retained by the carriers. Copies of selected parts of the records will be used by the Office of Systems Analysis and data will be retrieved in

Rockville from Baltimore via dial-up telecommunications lines.

##### **SAFEGUARDS:**

Unauthorized personnel are denied access to the records area. Disclosure is limited. Physical safeguards related to the transmission and reception of data between Rockville and Baltimore are those requirements established by the DHHS ADP Systems Manual, Part 6.

##### **RETENTION AND DISPOSAL:**

Records are closed at the end of the calendar year in which paid, held two additional years, transferred to Federal Records Center and destroyed after another 2 years.

##### **SYSTEM MANAGER(S) AND ADDRESS:**

Health Care Financing Administration, Bureau of Program Operations, Director, Division of Carrier Procedures, 6325 Security Boulevard, Baltimore, Md. 21207.

##### **NOTIFICATION PROCEDURE:**

Inquires and requests for system records should be addressed to the most convenient social security office, the appropriate carrier, the HCFA Regional Office, or to the system manager named above. The individual should furnish his or her health insurance claim number and the name as shown on social security records. An individual who requests notification of or access to a medical record shall at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

##### **RECORD ACCESS PROCEDURES:**

Same as notification procedures. Requesters should also reasonably specify the records contents being sought.

##### **CONTESTING RECORD PROCEDURES:**

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification.

##### **RECORD SOURCE CATEGORIES:**

The data contained in these records is either furnished by the individual or, in the case of some Medicare secondary payer situations, through third party contacts. In most cases, the identifying information is provided to the physician by the individual. The physician then adds the medical information and



submits the bill to the carrier for payment.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

09-70-0502

**SYSTEM NAME:**

Health Insurance Master Record, HHS/HCFA/BPO

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Health Care Financing Administration  
Bureau of Data Management and Strategy, 6325 Security Blvd., Baltimore, Md. 21207.  
Federal Records Centers

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under title XVIII of the Social Security Act; individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less than 24 months to disability benefits under title II of the Act or under the Railroad Retirement Act and individuals who have been, or currently are, entitled to such benefits because they have end-stage renal disease; or individuals whose enrollment in an employer group health benefits plan covers the beneficiary.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system contains information on enrollment, entitlement, utilization, query and reply activity, health insurance bill and payment record processing, workers' compensation entitlement information, and entitlement information from the Veterans Administration (VA), Health Insurance Master Record maintenance, and Medicare secondary payer records containing other party liability insurance information necessary for appropriate Medicare claim payment.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Sections 1814, 1833 and 1862(b) of title XVIII of the Social Security Act (42 U.S.C. 1396f, 1395l and 1395y(b)).

**PURPOSE(S):**

To maintain information on Medicare beneficiary eligibility and costs in order to reply to inquiries from contractors and intermediaries and to maintain utilization data for health insurance bill and payment record processing.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure may be made to: (1) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Act relating to railroad employment.

(2) State Welfare Department pursuant to agreements with the Department of Health and Human Services for determining Medicaid and Medicare eligibility, for quality control studies, for determining eligibility of recipients of assistance under title IV, XVIII, and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(3) State audit agencies for auditing State Medicaid eligibility considerations.

(4) Providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of title XVIII.

(5) A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(6) An individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determine that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form.

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished;

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual.

(b) For use in another research project, under these same conditions, and with written authorization of HCFA.

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law:

d. Secures a written statement attesting to the information recipient(s) understanding of and willingness to abide by these provisions.

(7) The Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) any HHS employee in his or her official capacity; or

(c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

(8) To a contractor when the Department contracts with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(9) State welfare agencies that require access to the two files which are extracted from the Health Insurance Master Record. These files are the Carrier Alphabetical State File (CASF) and Beneficiary State File (BEST). Most State agencies require access to the CASF and BEST files for improved administration of the Medicaid program. Routine uses of the CASF and BEST files for State agencies are: (a) Obtaining a beneficiary's correct health insurance claim number and (b) screening of pre-



payment and post-payment Medicaid claims.

(10) Third-party contacts (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have information relating to the individual's capability to manage his or her affairs or to his or her eligibility for an entitlement to benefits under the Medicare program when:

(a) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual); or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of system activities.

(11) Release information, without the beneficiary's authorization, to insurance companies, self-insurers, Health Maintenance Organizations, multiple employer trusts and other groups providing protection against medical expenses of their enrollees. Information to be disclosed shall be limited to Medicare entitlement data. In order to receive this information the entity must agree to the following conditions:

a. To certify that the individual about whom the information is being provided is one if its insureds;

b. To utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. To safeguard the confidentiality of the data and to prevent unauthorized access to it.

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

##### **STORAGE:**

Records maintained on paper, listings, microfilm, magnetic tape disc and punchcards.

##### **RETRIEVABILITY:**

System is sequence by health insurance claim number, and is used to carry out the tasks of enrollment, query/reply activity, and health insurance bill

and payment record processing. Copies of selected parts of the records will be used by the Office of Statistics and Data Management.

#### **SAFEGUARDS:**

Unauthorized personnel are denied access to the records areas. Disclosure is limited to routine use. For computerized records electronically transmitted between Central Office and field office locations (including Medicare contractors), systems securities are established in accordance with DHHS ADP Systems Manual, Part 6, "ADP Systems Security." Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

#### **RETENTION AND DISPOSAL:**

Records are generally added to the file several months prior to entitlement. After the death of a beneficiary, his or her records may be placed in an inactive file following a period of no billing or query activity. The current 5 years of Part B and current 5 spells of Part A utilization data are maintained. All noncurrent data is microfilmed prior to elimination from the system.

#### **SYSTEM MANAGER(S) AND ADDRESS:**

Health Care Financing Administration, Bureau of Program Operations, Director, Division of Entitlement Requirements, 6325 Security Boulevard, Baltimore, Md. 21207.

#### **NOTIFICATION PROCEDURE:**

Inquiries and requests for system records should be addressed to the most convenient social security office, the appropriate carrier or intermediary, the HCFA Regional Office, or the system manager named above. The individual should furnish his or her health insurance claim number and name as shown on Medicare records.

#### **RECORD ACCESS PROCEDURE:**

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2).))

#### **CONTESTING RECORD PROCEDURES:**

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department Regulations (45 CFR 5b.7)).

#### **RECORD SOURCE CATEGORIES:**

The data contained in these records are furnished by the individual, or in the case of some Medicare secondary payer situations, through third party contacts. There are cases, however, in which the identifying information is provided to the physician by the individual; the physician then adds the medical information and submits the bill to the carrier for payment. Updating information is also obtained from the Master Beneficiary Record.

#### **SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

90-70-0503

#### **SYSTEM NAME:**

Intermediary Medicare Claims Records, HHS, HCFA, BPO.

#### **SECURITY CLASSIFICATION:**

None.

#### **SYSTEM LOCATIONS:**

Intermediaries under contract to the Health Care Financing Administration and the Social Security Administration (See Appendix A, Section 3.)

Federal Records Centers  
Bureau of Quality Control, HCFA,  
Office of Systems Analysis, 6325  
Security Boulevard, Baltimore,  
Maryland, HHS Parklawn Computer  
Center, 5600 Fishers Lane, Rockville,  
Maryland 20857.

#### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Beneficiaries on whose behalf providers have submitted claims for reimbursement on a reasonable cost basis under Medicare Parts A and B, or are eligible, or individuals whose enrollment in an employer group health benefits plan covers the beneficiary.

#### **CATEGORIES OF RECORDS IN THE SYSTEM:**

Billing for Medical and Other Health Services: Uniform bill for provider services or equivalent data in electronic format, and Medicare secondary payer records containing other party liability insurance information necessary for appropriate Medicare claims payment and other documents used to support payments to beneficiaries and providers of services. These forms contain the beneficiary's name, sex, health insurance claim number, address, date of birth, medical record number, prior stay information, provider name and address, physician's name, and/or identification number, warranty information when pacemakers are implanted or explanted, date of



admission and discharge, other health insurance, diagnoses, surgical procedures, and a statement of services rendered for related charges and other data needed to substantiate claims.

#### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Sections 1816, 1862(b) and 1874 of Title XVIII of the Social Security Act (42 U.S.C. 1395h, 1395y(b) and 1395kk).

#### **PURPOSE(S):**

To process and pay Medicare benefits to or on behalf of eligible individuals.

#### **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure may be made to:

(1) Claimants, their authorized representatives or representative payees to the extent necessary to pursue claims made under title XVIII of the Social Security Act (Medicare).

(2) Third-party contacts without the consent of the individual to whom the information pertains in situations where the party to be contacted has, or is expected to have information relating to the individual's capability to manage his or her affairs or to his or her eligibility for or entitlement to benefits under the Medicare program when:

(a) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual) or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of systems activities.

(3) Third-party contacts where necessary to establish or verify information provided by representative payees or payee applicants.

(4) The Treasury Department for investigating alleged theft, forgery, or unlawful negotiations of Medicare reimbursement checks.

(5) The U.S. Postal Service for investigating alleged forgery or theft of Medicare checks.

(6) The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, or other criminal statutes as they pertain to Social Security Act programs, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

(7) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

(8) Professional Review Organizations in connection with their review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Social Security Act.

(9) State Licensing Boards for review of unethical practices or nonprofessional conduct.

(10) Providers and suppliers of services (and their authorized billing agents) directly or dealing through fiscal intermediaries or carriers, for administration of provisions of title XVIII.

(11) An individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form.

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished:

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual.

(b) For use in another research project, under these same conditions, and with written authorization of HCFA.

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law:

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by the provisions.

(12) State welfare departments pursuant to agreements with the Department of Health and Human Services for administration of State supplementation payments for determination of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under Section 1843 of the Social Security Act, for quality control studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(13) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(14) State audit agencies in connection with the audit of Medicaid eligibility considerations.

(15) The Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) any HHS employee in his or her official capacity; or

(c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee, or

(d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is



compatible with the purpose for which the records were collected.

(16) Senior citizen volunteers working in the intermediaries' and carriers' offices to assist Medicare beneficiaries' in response to beneficiaries requests for assistance.

(17) A contractor working with Medicare carriers/intermediaries to identify and recover erroneous Medicare payments for which workers' compensation programs are liable.

(18) State and other governmental Workers' Compensation Agencies working with the Health Care Financing Administration to assure that workers' compensation payments are made where Medicare has erroneously paid and workers' compensation programs are liable.

(19) Release information, without the beneficiary's authorization, to insurance companies, self-insurers, Health Maintenance Organizations, multiple employer trusts and other groups providing protection against medical expenses of their enrollees. Information to be disclosed shall be limited to Medicare entitlement data. In order to receive this information the entity must agree to the following conditions:

a. To certify that the individual about whom the information is being provided is one of its insureds;

b. To utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. To safeguard the confidentiality of the data and to prevent unauthorized access to it.

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

##### **STORAGE:**

Records maintained on paper forms, magnetic tape and microfilm.

##### **RETRIEVABILITY:**

The system is indexed by health insurance claim number. The record is prepared by the hospital or other provider with identifying information received from the beneficiary to establish eligibility for Medicare and document and support payments to providers by the intermediaries. The bill data are forwarded to the Health Care Financing Administration, Bureau of Data Management and Strategy, Baltimore, Md., where they are used to update the central office records. Copies of selected parts of the records will be used by the Office of Systems Analysis; data will be retrieved in Rockville from Baltimore via dial-up telecommunications lines.

#### **SAFEGUARDS:**

Disclosure of records is limited. The file area is closed to unauthorized personnel. Physical safeguards related to the transmission and reception of the data between Rockville and Baltimore are those requirements established by the DHHS ADP Systems Manual, Part 6.

#### **RETENTION AND DISPOSAL:**

Records are closed out at the end of the calendar year in which paid, held 2 more years, transferred to the Federal Records Center and destroyed after another 6 years.

#### **SYSTEM MANAGER(S) AND ADDRESS:**

Health Care Financing Administration, Director, Division of Provider Procedures, 6325 Security Boulevard, Baltimore, Md. 21207.

#### **NOTIFICATION PROCEDURE:**

Inquiries and requests for systems records should be addressed to the social security office nearest the requester's residence, the appropriate intermediary, the HCFA Regional Office, or to the system manager named above. The individual should furnish his or her health insurance number and name as shown on social security records. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

#### **RECORD ACCESS PROCEDURES:**

Same as notification procedures. Requesters should also reasonably specify the records contents being sought.

#### **CONTESTING RECORD PROCEDURES:**

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification.

#### **RECORD SOURCE CATEGORIES:**

The identifying information contained in these records is obtained by the provider from the individual or, in the case of some Medicare secondary payer situations, through third party contacts. The medical information is entered by the provider of medical services.

#### **SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

#### **Appendix A. Health Insurance Claims**

Medicare records are maintained at the HCFA Central Office (see section 1 below for the address). Health insurance records of the Medicare program can also be accessed through a representative of the HCFA Regional Office (see section 2 below for addresses). Medicare claims records are also maintained by private insurance organizations who share in administering provisions of the health insurance program. These private insurance organizations, referred to as carriers and intermediaries, are under contract to the Health Care Financing Administration and the Social Security Administration to perform specific tasks in the Medicare program. See section 3 below for addresses for intermediaries and section 4 addresses for carriers.

1. Central Office Addresses:  
Bureau of Program Operations, HCFA, 6325 Security Boulevard, Baltimore, Maryland 21207. Office Hours: 8:15-4:45.

Bureau of Data Management and Strategy, HCFA, Office of Health Program Systems, Room 1705, Equitable Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Office Hours: 8:15-4:45.

2. HCFA Regional Office Addresses:

**BOSTON REGION**—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

John F. Kennedy Federal Building, Room 1211; Boston, Massachusetts 02203. Office Hours: 8:30-5:00

**NEW YORK REGION**—New Jersey, New York, Puerto Rico, Virgin Islands  
26 Federal Plaza—Room 715, New York, New York 10007. Office Hours: 8:30-5:00

**PHILADELPHIA REGION**—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia  
P.O. Box 8460, Philadelphia, Pennsylvania 19101. Office Hours: 8:30-5:00

**ATLANTA REGION**—Alabama, North Carolina, South Carolina, Florida, Georgia, Kentucky, Mississippi, Tennessee  
101 Marietta Street, Suite 702, Atlanta, Georgia 30223. Office Hours 8:00-4:30

**CHICAGO REGION**—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin  
Suite A-824, Chicago, Illinois 60604. Office Hours: 8:15-4:45

**DALLAS REGION**—Arkansas, Louisiana, New Mexico, Oklahoma, Texas  
1200 Main Tower Building, Dallas, Texas. Office Hours: 8:00-4:30

**KANSAS CITY REGION**—Iowa, Kansas, Missouri, Nebraska  
New Federal Office Building, 601 East 12th Street—Room 436, Kansas City, Missouri 64106. Office Hours: 8:00-4:45

**DENVER REGION**—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming  
Federal Office Building, 1961 Stout St—Room 1185, Denver, Colorado 80294. Office Hours: 8:00-4:30

**SAN FRANCISCO REGION**—American Samoa, Arizona, California, Guam, Hawaii, Nevada  
Federal Office Building 10 Van Ness Avenue, 20th Floor, San Francisco, California 94102. Office Hours: 8:00-4:30



SEATTLE REGION—Alaska, Idaho, Oregon, Washington  
1321 Second Avenue—Room 615, Mail Stop 211, Seattle, Washington 98101. Office Hours: 8:00—4:30

### 3. Intermediary Addresses [Hospital Insurance]:

Medicare Coordinator, Blue Cross/Blue Shield of Alabama, 450 Riverchase Parkway East, Birmingham, Alabama 35298  
Medicare Coordinator, Blue Cross of Arizona, Inc., P.O. Box 13466, Phoenix, Arizona 85002  
Medicare Coordinator, Arkansas Blue Cross/Blue Shield, Inc., 601 Gaines Street, Little Rock, Arkansas 72203  
Medicare Coordinator, Blue Cross of Southern California, P.O. Box 70000, Van Nuys, California 91470  
Medicare Coordinator, Blue Cross of Northern California, 1950 Franklin Street, Oakland, California 94659  
Medicare Coordinator, Kasier Foundation Health Plan, Inc., 1956 Webster Street, Room 310A, Oakland, California 94612  
Medicare Coordinator, Rocky Mountain Hospital and Medical Service, 700 Broadway, Denver, Colorado 80203  
Medicare Administrator, Aetna Life & Casualty, 151, Farmington Avenue, Hartford, Connecticut 06156  
Medicare Coordinator, Blue Cross/Blue Shield Connecticut, 370 Bassett Rd., North Haven, Connecticut 06473  
Medicare Administrator, Travelers Ins. Co., One Tower Square, Hartford, Connecticut 06115  
Triage, Inc. 719 Middle Street, Bristol, Connecticut 06019  
Medicare Coordinator, Blue Cross/Blue Shield of Delaware, Inc., 201 West 14th Street, Wilmington, Delaware 19899  
Medicare Coordinator, Group Hospitalization, Inc., 550 12th Street, S.W., Washington, D.C. 20024  
Medicare Coordinator, Blue Cross of Florida, Inc., P.O. Box 1798, Jacksonville, Florida 32201  
Medicare Coordinator, Blue Cross of Georgia/Columbus, P.O. Box 7368, Columbus, Georgia 31908  
Medicare Coordinator, Blue Cross of Georgia/Atlanta, P.O. Box 4445, Atlanta, Georgia 30302  
Medicare Coordinator, Hawaii Medical Service Association, P.O. Box 860, Honolulu, Hawaii 96808  
Medicare Coordinator, Blue Cross of Idaho, Inc., P.O. Box 7480, Boise, Idaho 83707  
Medicare Coordinator, Health Care Service Corp., 233 North Michigan Avenue, Chicago, Illinois 60601  
Medicare Coordinator, Mutual Hospital Insurance, Inc., 120 West Market Street, Indianapolis, Indiana 46204  
Medicare Coordinator, Blue Cross of Iowa, Ruan Building, 636 Grant Avenue, Station 28, Des Moines, Iowa 50307  
Medicare Coordinator, Blue Cross of Western Iowa and S. Dakota, Third and Pierce Street, Sioux City, Iowa 51102  
Medicare Administrator, Kansas Hospital Service Association, Inc., P.O. Box 239, Topeka, Kansas 66601  
Medicare Coordinator, Blue Cross and Blue Shield of Kentucky, Inc., 9901 Linn Station Road, Louisville, Kentucky 40223

Medicare Coordinator, Louisiana Health Service and Indemnity Company, 2718A Wooddale Blvd., Baton Rouge, Louisiana 70805  
Medicare Coordinator, Associated Hospital Service of Maine, 110 Free Street, Portland, Maine 04101  
Medicare Coordinator, Maryland Blue Cross, Inc., 700 East Joppa Road, Baltimore, Maryland 21204  
Medicare Coordinator, Part A. Blue Cross of Mass., Inc., 100 Summer Street, Boston, Massachusetts 02106  
Medicare Coordinator, Blue Cross of Michigan, 600 Lafayette East, Detroit, Michigan 48226  
Medicare Coordinator, Blue Cross of Minnesota, 3535 Blue Cross Road, St. Paul, Minnesota 55765  
Medicare Coordinator, Blue Cross of Miss., P.O. Box 1043, Jackson, Mississippi 39205  
Medicare Coordinator, Blue Cross Hospital Service of Missouri, 4444 Forest Park Boulevard, St. Louis, Missouri 63108  
Medicare Coordinator, Blue Cross of Montana, P.O. Box 5017, Great Falls, Montana 59403  
Medicare Coordinator, Mutual of Omaha Ins. Co., Box 456 Downtown Station, Omaha, Nebraska 68101  
Medicare Coordinator, Blue Cross of Nebraska, P.O. Box 3248, Main Post Office Station, Omaha, Nebraska 68103  
Medicare Coordinator, New Hampshire Vermont Health Service, 2 Pillsbury Street, Concord, New Hampshire 03306  
Medicare Coordinator, Hospital Service Plan of New Jersey, 33 Washington Street, Newark, New Jersey 07102  
Medicare Coordinator, Prudential Ins. Co. of America, Drawer 471, 1 Millville, New Jersey 08332  
Medicare Coordinator, New Mexico Blue Cross Inc., 12800 Indian School Rd., N.E., Albuquerque, New Mexico 87112  
Medicare Coordinator, B/C-B/S of New York, 622 Third Avenue, New York, New York 10017  
Medicare Coordinator, North Carolina B/C-B/S, P.O. Box 2291, Durham, North Carolina 27702  
Medicare Coordinator, Blue Cross of North Dakota, 4510 13th Avenue, S.W., Fargo, North Dakota 58121  
Medicare Coordinator, B/C of N.W. Ohio, P.O. Box 943, Toledo, Ohio 43601  
Medicare Coordinator, B/C of N.E. Ohio, 2086 East Ninth Street, Cleveland, Ohio 44115  
Medicare Coordinator, Hospital Care Corporation, 1351 William Howard Taft Road, Cincinnati, Ohio 45206  
Medicare Coordinator, Nationwide Mutual Insurance Co., P.O. Box 1625, Columbus, Ohio 43216  
Medicare Coordinator, B/C of Central Ohio, P.O. Box 16526, Columbus, Ohio 43216  
Medicare Coordinator, Blue Cross of Oklahoma, 1215 South Boulder, Tulsa, Oklahoma 74119  
Medicare Coordinator, Northwest Hospital Service, P.O. Box 1271, Portland, Oregon 97201  
Medicare Coordinator, Blue Cross of Greater Philadelphia, 1333 Chestnut Street, Philadelphia, Pennsylvania 19107

Medicare Coordinator, Blue Cross of Western Pennsylvania, One Smithfield Street, Pittsburgh, Pennsylvania 15222  
Medicare Coordinator, B/C of N.E. Pennsylvania, 70 North Main Street, Wilkes-Barre, Pennsylvania 18711  
Medicare Coordinator, Hospital Service Plan of Lehigh Valley, 1221 Hamilton Street, Allentown, Pennsylvania 18102  
Medicare Coordinator, Capital Blue Cross, 100 Pine Street, Harrisburg, Pennsylvania 17101  
Cooperativa de Seguros de Vida de Puerto Rico, G.P.O. Box 3428, San Juan, Puerto Rico 00936  
Blue Cross of Rhode Island, 444 Westminster Mall, Providence, Rhode Island 02901  
Medicare Coordinator, Blue Cross of S.C., Columbia, South Carolina 29219  
Medicare Coordinator, Blue Cross of Tennessee, Blue Cross Bldg., Chattanooga Tennessee 37402  
Medicare Coordinator, Group Hospital Service, Inc., P.O. Box 22146, Dallas, Texas 75222  
Medicare Coordinator, B/C of Utah, P.O. Box 30270, Medicare A, Salt Lake City, Utah 84130  
Medicare Coordinator, B/C of S.W. Virginia, P.O. Box 13047, 3959 Electric Rd. Roanoke, Virginia 24045  
Medicare Coordinator, Blue Cross of Virginia P.O. Box 27401, Richmond, Virginia 23261  
Medicare Coordinator, B/C of Washington/Alaska, Inc., 15700 Dayton Avenue, North, P.O. Box 327, Seattle, Washington 98111  
Medicare Coordinator, Parkersburg Hosp. Serv., Inc., P.O. Box 1948, Parkersburg, West Virginia 26101  
Medicare Coordinator, Blue Cross Hospital Service Inc., P.O. Box 1353, City Center West Charleston, West Virginia 25325  
Medicare Coordinator, Blue Cross of Northern West Virginia Inc., 20th and Chapline Streets, Wheeling, West Virginia 26003  
Medicare Coordinator, Blue Cross/Blue Shield United of Wisconsin, Milwaukee, Wisconsin 53201  
Medicare Coordinator, Blue Cross/Blue Shield of Wyoming, P.O. Box 2266, Cheyenne, Wyoming 8200  
Health Care Financing Administration, Bureau of Program Operations, Office of Prepaid Operations Staff, 6325 Security Boulevard, Baltimore, Maryland 21207  
Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611  
4. Carrier Addresses (Supplementary Medical Insurance).  
Medicare Coordinator, Blue Cross Blue Shield of Alabama, 450 Riverchase Parkway East, Birmingham, Alabama 35298  
Vice President for Medicare and Medical Services, Arkansas Blue Cross/Blue Shield 601 Gaines Street, Little Rock, Arkansas 72203  
Medicare Coordinator, California Blue Shield, P.O. Box 7968, Rincon Annex, San Francisco, California 94120  
Medicare Coordinator, Transamerica Occidental Life Insurance Company, P.O. Box 54905 Terminal Annex, Los Angeles, California 90054



Kaiser Foundation Health Plan, 1956 Webster Street, Rm 310-A, Oakland, California 94612

Assistant Vice President, Blue Shield of Colorado, 700 Broadway, Denver, Colorado 80273

Medicare Administrator, Travelers Ins. Co., One Tower Square, Hartford, Connecticut 06115

Medicare Administrator, Aetna Life & Casualty, 151 Farmington Avenue, Hartford, Connecticut 06156

Medicare Coordinator, Connecticut General Life Insurance Company, Hartford, Connecticut 06152

Medicare Coordinator, Blue Cross/Blue Shield of Delaware, 201 West 14th Street, Wilmington, Delaware 19899

Medicare Coordinator, Blue Cross of Florida, Inc., P.O. Box 1798, Jacksonville, Florida 32231

Group Health, Inc., 1320 South Dixie Highway, Coral Gables, Florida 33146

Medicare Administrator, Prudential Insurance Company of America, P.O. Box 95466, 57 Executive Park Station, Atlanta, Georgia 30347

Medicare Claim Administrator, Hawaii Medical Service Association, 100 Bishop Street, P.O. Box 860, Honolulu, Hawaii 96808

Health Care Service Corporation, 233 North Michigan Avenue, Chicago, Illinois 60601

Assistant Vice President Medicare Dept., Mutual Medical Insurance, Inc., 120 West Market Street, Indianapolis, Indiana 46204

Assistant Executive director, Blue Shield of Iowa, Ruan Building, 636 Grand Avenue, Des Moines, Iowa 50307

Medicare Assistant, Blue Shield of Kansas Inc., P.O. Box 239, Topeka, Kansas 66601

Manager, Medicare Liaison, Pan American Life Insurance Co., P.O. Box 60182, New Orleans, Louisiana 70130

Medicare Coordinator, Maryland Blue Shield, Inc., 700 E. Joppa Road, Baltimore, Maryland 21204

Medicare Coordinator Part B, Massachusetts Blue Shield, 100 Summer Street, Boston, Massachusetts 02106

Asst. Vice Pres. Govern. Aff. Dept. Blue Cross and Blue Shield of Michigan, 600 Lafayette East, Detroit, Michigan 48226

Blue Cross/Blue Shield of Minn., 3535 Blue Cross Road, St. Paul, Minnesota 55765

Vice President Government Programs, Blue Shield of Kansas City, P.O. Box 169, Kansas City, Missouri 64141

Director, Medicare Administration, General American Life Ins. Corp., 13045 Tesson Ferry Road, St. Louis County, Missouri

Montana Physicians Service, P.O. Box 4310, Helena, Montana 59601

Assistant Vice President, Medicare Administration, Mutual of Omaha Insurance Co., Box 456, Downtown Station, Omaha, Nebraska 68101

Medicare Coordinator, New Hampshire Vermont Phys. Serv., 2 Pillsbury St., Concord, New Hampshire 03306

Medicare Coordinator, Prudential Insurance Co. of America, P.O. Box 471, Milville, New Jersey 08332

Director of Medicare Part B, Blue Shield of Western New York, Inc., 298 Main Street, Buffalo, New York 14202

Medicare Coordinator, Group Health Insurance, Inc., 326 West 42nd Street, New York, New York 10036

Medicare Coordinator, Genesee Valley Medical Care, Inc., 42 Chestnut Street, Rochester, New York 14604

Medicare Coordinator, Blue Cross/Blue Shield of Greater N.Y., 622 Third Avenue, New York, New York 10017

Medicare Coordinator, The Equitable Life Assurance Society, 1285 Avenue of the Americas, New York, New York 10019

Medicare Coordinator, Blue Shield of North Dakota, 4510 13th Avenue, S.W., Fargo, North Dakota 58121

Medicare System & Proc. Div., Nationwide Mutual Insurance Company, P.O. Box 1625, Columbus, Ohio 43216

Department of Human Services, 101 Sequoyah Boulevard, Oklahoma City, Oklahoma 73105

Medicare Coordinator, Pennsylvania Blue Shield, P.O. Box 65, Camp Hill, Pennsylvania 17011

Chief, Internal Operations, Seguros de Servicio de Salud de Puerto Rico, Inc., G.P.O. Box 3628, San Juan, Puerto Rico 00936

Medicare Coordinator, Blue Shield of Rhode Island, 444 Westminster Mall, Providence, Rhode Island 02901

Medicare Coordinator, Blue Cross/Blue Shield of S.C., Columbia, South Carolina 29219

EDS Federal Corporation, 7171 Forest Lane, Dallas, Texas 75230

Offices Services, Group Medical & Surgical Service, P.O. Box 22147, Dallas, Texas 75222

Manager, Part B, Blue Shield of Utah, P.O. Box 30270, Salt Lake City, Utah 84125

Assistant Administrator, Washington Physicians Service, 4th and Battery Building—2401 4th Avenue, 6th Floor, Seattle, Washington 98121

Director, Medicare Claims Dept., Wisconsin Physicians Service, P.O. Box 9277, Madison, Wisconsin 53715

Health Care Financing Administration, Bureau of Program Operations, Office of Prepaid Operations 6325 Security Blvd., Baltimore, Maryland 21207

Director of Retirement Claims, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611

[FR Doc. 86-7460 Filed 4-3-86; 8:45 am]

BILLING CODE 4120-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Alaska AA-48604-W]

### Notice of Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48604-W has been received covering the following lands:

### Faibanks Meridian, Alaska

T. 20 S., R. 2 W.,  
Sec. 11, NW¼,  
(160 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to \$5 per acre per year, and royalty increased to 16½ percent. The \$500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from July 1, 1985, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48604-W as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective July 1, 1985, subject to the terms and conditions cited above.

Dated: March 25, 1986.

Robert D. Merrill,

Acting Chief, Branch of Mineral Adjudication.

[FR Doc. 86-7516 Filed 4-3-86; 8:45 am]

BILLING CODE 4310-JA-M

### Las Cruces District Advisory Council Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** A special meeting of the Las Cruces District Advisory Council will be held on April 29, 1986, at 1:30 p.m. and 7:00 p.m. in the large meeting room of the Elephant Butte Inn, Elephant Butte, New Mexico. The primary purpose of the meeting is for the District Manager to get additional comments and recommendations from the council concerning six wilderness study areas in the Las Cruces District. The council will also consider Districtwide grazing issues, especially range improvements. Grazing will be addressed by the council first, during the afternoon session. At approximately 3:00 p.m. BLM staff will provide a briefing on wilderness. There will be a public comment period at 4:00 p.m. The evening session will be devoted to public comments on the Eagle Peak\*, Mesita Blanca\*, Stallion, Alamo Hueco\*, Brokeoff Mountains, and Big Hatchets\* Wilderness Study Areas (WSAs). Members of the public unable to attend the evening session can present comments on these areas during the afternoon session. Following these comments, the council will deliberate and offer advice to the District Manager



on the suitability (or unsuitability) of WSAs as wilderness.

**ADDRESS:** The Elephant Butte Inn is located 5 miles north of Truth or Consequences, New Mexico, close to Exit 83 on Interstate 25.

**FOR FURTHER INFORMATION CONTACT:** Mel Ingeroi, Public Affairs Specialist, 505-525-8228, Bureau of Land Management, 1800 Marquess Street, Las Cruces, NM 88005.

**SUPPLEMENTARY INFORMATION:** The Las Cruces District Manager is seeking additional information to help him make recommendations concerning the suitability (or unsuitability) of the above WSAs as wilderness. These and other WSAs were considered in the May 1985 draft environmental impact statement on the New Mexico statewide wilderness study. At that time split-estate lands (federal surface-nonfederal subsurface) were not included in the WSAs. As the result of a court decision, such split-estate lands were brought back into the study process. Of the six WSAs to be considered at the Advisory Council meeting, four now contain substantial acreages of split-estate (marked with asterisk). The six WSAs were identified for additional consideration and public comment because of the split-estate issue, large amount of public interest, and certain resource conflicts.

The meeting will provide an opportunity for the public to offer comments that will assist the council in advising the District Manager concerning the six WSAs.

Robert R. Calkins,  
Acting District Manager.

[FR Doc. 86-7461 Filed 4-3-86; 8:45 am]

BILLING CODE 4310-FB-M

[CA 16395]

### Sale of Public Land in Los Angeles County, CA; Correction

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Realty Action, correction of acreage and fair market value.

**SUMMARY:** This document corrects the acreage figure and the appraised fair market value for a sale parcel listed in Notice of Realty Action, CA 16395, published on June 5, 1985 in Vol. 50, No. 106, page 23770 of the *Federal Register*. The subject sale parcel is described in the aforementioned notice as LA-11, serial no. CA 17224, located in T. 5 N., R. 13 W., SBM., Section 6: Lots 5, 13-24 &

30-32, Los Angeles County, California. The subject sale parcel was described as containing 191.07 acres with an appraised fair market value of \$95,000. The correct acreage is 171.07 acres. The adjusted fair market value is \$85,500 based on a \$500/acre value and rounded to the nearest hundred.

Dated: March 26, 1986.

William A. Kennedy,  
Acting District Manager.

[FR Doc. 86-7346 Filed 4-3-86; 8:45 am]

BILLING CODE 4310-40-M

### Proposed Decision on Re-Inventory of Sage Hen Hills Wilderness Study Area, OR

I hereby announce my proposed decision that the Sage Hen Hills Wilderness Study Area (WSA), OR-1-146B, Lakeview District, will be included in BLM's wilderness review under the authority of section 202 of the Federal Land Policy and Management Act (FLPMA).

#### Public Comment Period

Publication of this notice in the *Federal Register* begins a 90-day public review and comment period on the proposed decision. The public comment period will end on July 3, 1986. Comments should be sent to Wilderness Inventory (933), BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

All public comments received during the comment period will be recorded, analyzed and filed for future reference.

#### Background

The U.S. District Court for the Eastern District of California issued a decision on April 18, 1985, in *Sierra Club v. Watt*. The lawsuit concerned certain lands that were deleted from wilderness review in 1982 and 1983. Among the lands that were deleted were WSA's containing more than 5,000 acres and determined to have wilderness characteristics only in association with contiguous lands managed by another agency. In a stipulated settlement with the plaintiffs, the Department of the Interior agreed to re-inventory such areas. Those found to have wilderness characteristics in and of themselves will be managed as WSA's under the authority of section 603 of the FLPMA. Those found to have wilderness characteristics only in association with contiguous lands managed by another agency will be managed as WSA's under the authority of section 202 of the FLPMA. Both types of WSA's will be

studied to determine whether they should be recommended as suitable for wilderness designation and preservation, and both will be managed under the provisions of the *Interim Management Policy and Guidelines for Lands Under Wilderness Review*. However, there will be a difference in the way existing and new mining activities under the 1872 Mining Law will be regulated. In "603" WSA's, those activities will be regulated to prevent impairment of the areas' wilderness suitability. In "202" WSA's, the mining activities will be regulated only to prevent unnecessary or undue degradation of the lands—not to prevent impairment of wilderness suitability.

In a November 14, 1980, final intensive wilderness inventory decision (45 FR 75597), the Sage Hen Hills WSA was determined to have wilderness characteristics only in conjunction with contiguous lands in the Sage Hen Hills Unit of the Charles Sheldon National Wildlife Refuge in Nevada. That 21,800-acre unit is administratively endorsed for wilderness designation. The WSA was deleted from wilderness review by a decision published in the *Federal Register* on March 28, 1983 (48 FR 12842).

#### Results of Re-Inventory

The WSA was re-examined in the field in October 1985. On the basis of that review, it has been determined that the WSA only has wilderness characteristics when considered in conjunction with contiguous lands in the Charles Sheldon National Wildlife Refuge. Therefore, the lands will be included in the wilderness review under the authority of section 202 of FLPMA.

#### Description of the WSA

**Size:** The WSA contains 8,520 acres.

**Location:** The WSA is located 36 miles east of Adel, Oregon.

**Boundaries:** The south boundary is the Nevada State Line; the state line is also the north boundary of the Charles Sheldon National Wildlife Refuge. The other boundaries are BLM Roads 6176, 6176A and 6126A. The Hawk Mountain WSA, OR-1-146A, lies on the other side of the east boundary road.

**Physical Characteristics:** The topography is primarily low rolling hills. The vegetation is a mixture of big sagebrush/bunchgrass and low sagebrush communities.

#### Wilderness Criteria

**Size:** The WSA meets the minimum size criteria for WSA's.



**Naturalness:** The WSA remains in a natural condition with the works of man substantially unnoticeable. The WSA contains one vehicle way which is discernable from the air but very difficult to find on the ground. A small reservoir is located just inside the north boundary.

**Opportunities for Solitude:** The WSA does not offer outstanding opportunities for solitude when considered by itself. The moderate topographic relief and low vegetation provide limited screening. However, the WSA does provide outstanding opportunities for solitude when it is considered in conjunction with the adjacent lands in the Sage Hen Hills Unit of the wildlife refuge. The two areas contain a total of 30,320 acres. The increase in size compensates for the limited topographic and vegetative screening.

**Opportunities for Primitive Recreation:** The WSA offers opportunities for day hiking, backpacking, horseback riding, hunting, and wildlife observation. The opportunities are not outstanding when the WSA is considered by itself but are outstanding when the WSA is considered with the contiguous proposed wilderness area in the wildlife refuge.

**Supplemental Values:** The WSA is part of a migration route for antelope traveling between winter and summer ranges.

#### Future Action

Following the public comment period, I will consider the public comments and reassess the proposed decision. My final decision will be announced in the *Federal Register*.

A preliminary recommendation on whether the Sage Hen Hills WSA should be designated wilderness will be analyzed in a supplement to the draft Statewide Wilderness Environmental Impact Statement (EIS) for Oregon. The draft EIS will be released for public review and comment later this year.

#### Further Information

For further information, contact Don Geary (933), BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, telephone (503) 231-6823.

Dated: March 27, 1986.

William G. Leavell,  
State Director.

[FR Doc. 86-7239 Filed 4-3-86; 8:45 am]

BILLING CODE 4310-33-M

#### Minerals Management Service

##### Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7313, with copies to David A. Schuenke; Chief, Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

#### Title

Inspection and Reporting of Progress and Results of Activities Conducted Under Permits, 30 CFR 251.7

#### Abstract

Respondents provide the Minerals Management Service (MMS) with a status report that enables MMS to verify that permit requirements are met, estimate completion dates, and determine the quality of data acquired by persons operating under a permit for geological and geophysical exploration for mineral resources and scientific research in the Outer Continental Shelf (OCS).

*Bureau Form Number:* None

*Frequency:* Monthly and other

*Description of Respondents:* Federal OCS permittees

*Annual Responses:* 1,600

*Annual Burden Hours:* 96,000

*Bureau Clearance Officer:* Dorothy Christopher, (703) 435-6213

Dated: March 3, 1986.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 86-7515 Filed 4-3-86; 8:45 am]

BILLING CODE 4310-MR-M

#### INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30802]

##### Colorado & Eastern Railroad Co.; Exemption To Acquire and Operate; CMC Real Estate Corp.

The Colorado & Eastern Railroad Company has filed a notice of exemption to acquire and operate certain rail properties, which have been abandoned by the Trustee of the former Chicago, Milwaukee, St. Paul and Pacific Railroad Company, from the non-carrier seller CMC Real Estate Corporation, consisting of a 21 mile line of railroad in Council Bluffs, Pottawattamie County, IA. Any comments must be filed with the Commission and served on Joseph H. Dettmar, Fifth Floor, 1000 Potomac Street, NW., Washington, DC, 20007: (202) 965-7880.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 17, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-7468 Filed 4-3-86; 8:45 am]

BILLING CODE 7035-01-M

##### Release of Waybill Data for Use in Developing Car Building Programs

The Commission has received a request from General Electric Railcar Services for permission to use the Commission's 1983, 1984, and 1985 Carload Waybill Sample to assist them in developing new car building programs. Specifically, they request: (1) Mileage distribution for carloads for 5-digit commodities (STCC) by ICC car type, (2) weight distribution of carloads for 5-digit commodities by ICC car type, and (3) territorial distribution of carloads for 5-digit commodities by ICC car type.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission has developed a Public Use Waybill File that has satisfied the majority of all our waybill data requests while protecting



the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling way bill requests, we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party (48 FR 40238, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. They should also include all grounds for objection to the full or partial disclosure of the requested data. The Commission's Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

Contact: Elaine Kaiser, (202) 275-6894.

James H. Bayne,  
Secretary.

[FR Doc. 86-7467 Filed 4-3-86; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 85-25]

#### Revocation of Registration; Antonio C. Camacho, M.D.

On April 15, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Antonio C. Camacho, M.D. (Respondent), of 10555 South Ewing, Chicago, Illinois 60617, an order to show cause proposing to revoke DEA Certificate of Registration AC5596424, issued to Respondent as a practitioner under 21 U.S.C. 823(f). The statutory predicate for the proposed action was Respondent's conviction on September 11, 1984, in the Circuit Court of Cook County, Illinois, of narcotics racketeering and delivery of a controlled substance, felony offenses relating to controlled substances. 21 U.S.C. 824(a)(2).

Respondent, through counsel, requested a hearing on the issues raised in the order to show cause. The matter was placed on the docket of

Administrative Law Judge Francis L. Young. After the usual prehearing proceedings, including a prehearing telephone conference, a hearing was held in Chicago, Illinois, on September 12, 1985.

On November 15, 1985, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. No exceptions were filed, and on December 11, 1985 the Administrative Law Judge transmitted the record of these proceedings to the Administrator.

The Administrative Law Judge found that the Respondent was a medical student in the Philippines and immigrated to the United States in 1970. He worked in the emergency room at the South Chicago Community Hospital for six years before going into general practice in the south side of Chicago in 1979.

Respondent came to the attention of Illinois law enforcement officials in October 1983 when they, in conjunction with neighboring Indiana State Police, noticed large numbers of prescriptions for Dilaudid appearing in the area. Most of these were written by Respondent. The investigation by the Illinois Department of State Police established that Respondent was selling prescriptions for financial profit, these prescriptions were being sold without medical need. An undercover Agent purchased quantities of Dilaudid prescriptions for absolutely no medical purpose and with no medical justification, in several names. During one visit, Respondent dickered with the Agent over the price of a Dilaudid prescription. Respondent was aware of the price of Dilaudid on the streets of Chicago at the time. As a result of this investigation, Respondent pled guilty to narcotics racketeering and delivery of a controlled substance and was fined \$10,000 and placed on probation for 30 months.

At a state administrative hearing, Respondent offered testimony by two physicians who worked with Respondent and considered him a good physician. Respondent offered the transcript of their testimony. Several of Respondent's patients also testified at the state hearing and stated that he treated them with care and sympathetic understanding. The Administrative Law Judge found this evidence of little relevance to the issue at hand: Respondent's willingness to unleash dangerous drugs into the general population without medical need for doing so. Judge Young states the fact that Respondent did not testify at the hearing can lead to only one conclusion: that Respondent was unwilling to be

forthright and completely honest with the Administrative Law Judge and the DEA. Such a person is not to be entrusted with a DEA registration.

The Administrative Law Judge further found, and the evidence clearly shows, that Respondent carried on a cool, calculated business of selling prescriptions for a highly dangerous substance in large quantities, for large amounts of money, to anyone willing to pay the price. Respondent showed no concern whatsoever for the use to which the drugs obtained might be put. Such a complete abrogation of professional responsibility cannot be tolerated. Therefore, the Administrative Law Judge recommended that Respondent's DEA registration be revoked.

The Administrator of the Drug Enforcement Administration adopts the recommended ruling, findings of fact and conclusions of law of the Administrative Law Judge in their entirety. The Administrator concludes that the continued registration of Respondent would pose a serious risk to the public.

Having concluded that there is a lawful basis for the revocation of Respondent's registration and having further concluded that under the facts and circumstances presented in this case the registration should be revoked, the Administrator of the Drug Enforcement Administration pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AC5596424, issued to Antonio C. Camacho, M.D., be, and hereby is revoked effective May 5, 1986.

Dated: March 31, 1986.

John C. Lawn,  
Administrator.

[FR Doc. 86-7478 Filed 4-3-86; 8:45 am]

BILLING CODE 4410-09-M

#### Revocation of Registration; Meyer Liebowitz, M.D.

On February 20, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Meyer Liebowitz, M.D. (Respondent) of 165 Ada Drive, Staten Island, New York 10314, an Order to Show Cause proposing to revoke his DEA Certificate of Registration AL5744657 and to deny pending applications for registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated on Respondent's lack of state authorization to handle controlled substances in the State of New York, as well as his



controlled substance felony conviction in the State of Connecticut.

By letter dated February 28, 1986, Dr. Liebowitz submitted a written statement regarding his position on the issues raised by the Order to Show Cause, implicitly waiving his opportunity for a hearing on such issues. 21 CFR 1301.54(c). Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file and Respondent's written statement. 21 CFR 1301.57.

The Administrator finds that on November 9, 1983, Respondent was convicted in the Superior Court of the State of Connecticut, Judicial District of New Haven, of illegal distribution of cocaine and possession of cocaine in violation of Connecticut General Statutes 19-480(a) and 19-481(a). These are felony convictions relating to controlled substances. Therefore, there is a lawful basis for the revocation of Respondent's registration. 21 U.S.C. 824(a)(2).

On May 15, 1984, the State of Connecticut Medical Examining Board, in a unanimous decision, revoked Dr. Liebowitz's license to practice medicine in the State of Connecticut. Subsequently, on June 4, 1985, the Commissioner of Education of the State of New York accepted the recommendation of the Regents Review Committee, Board of Regents and revoked Dr. Liebowitz's license to practice medicine in the State of New York. The revocation of Respondent's state license is also a basis for the revocation of his DEA Certificate of Registration. 21 U.S.C. 824(a)(3).

Dr. Liebowitz is currently registered by DEA to handle controlled substances at his address in New York. Such registration is the subject of this final order. The Drug Enforcement Administration cannot register a practitioner to handle controlled substances who is not duly authorized to handle controlled substances in the State of in which he does business. 21 U.S.C. 823(f) and 824(a)(3). Dr. Liebowitz is not authorized to handle controlled substances in the State of New York. This Administrator and all of his predecessors have consistently held that they cannot register practitioners who lack state authorization to handle controlled substances. See, *Rex A. Pittenger, M.D.*, Docket No. 85-52, 51 FR 5422 (1986); *Avner Kauffman, M.D.*, Docket No. 85-8, 50 FR 34208 (1985); *Sam S. Misasi, D.O.*, 50 FR 11469 (1985). Therefore, Respondent's DEA Certificate of Registration must be revoked.

In his letter dated February 28, 1986, Dr. Liebowitz requested that his

registration be suspended rather than revoked since he is appealing his criminal convictions and seeking reinstatement of his medical license in both Connecticut and New York. The Drug Enforcement Administration has consistently maintained that a revocation of registration or denial of application is lawful even if a conviction is on appeal. See *Ronald Wardell Andrews, M.D.*, 47 FR 56745 (1982); *Lamar T. Zimmerman, M.D.*, 45 FR 3405 (1980); *Joseph J. Godorov, D.O.*, Docket No. 78-8, 43 FR 36702 (1978). Should Respondent be successful and gain the reinstatement of one of his medical licenses, he is not precluded from applying for a new DEA Certificate of Registration. At that time, Respondent's application would be considered in light of his past experience and felony conviction record.

The Administrator concludes that Dr. Liebowitz's DEA Certificate of Registration should be revoked and any pending applications for registration should be denied. There is a lawful basis for this revocation and denial. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AL 5744657, previously issued to Meyer Liebowitz, M.D., be and it hereby is revoked. The Administrator further orders that any pending applications for registration are hereby denied. This order is effective May 5, 1986.

Dated: March 31, 1986.

John C. Lawn,  
Administrator.

[FR Doc. 86-7479 Filed 4-3-86; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

##### Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting recordkeeping requirements that will affect the public.

##### List of Recordkeeping/Reporting Requirements Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will

publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses for the information collection.

##### Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Department Clearance Officer, Paul E. Larson, Telephone 202-523-6331.

Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

##### Extension

*Employment Standards Administration*

1215-0037; WH-512-MIS

Annually

Individuals or households; Farms;

Business or other for-profit;

Small businesses or organizations

2,600 responses; 1,300 hours; 1 form



The Migrant and Seasonal Agricultural Worker Protection Act provides that no person may be hired, employed or used by a farm labor contractor to perform farm labor contracting activities unless such person has a certificate of registration from the Secretary specifying the contracting activities which have been authorized.

#### *Employment Standards Administration*

##### *Application for A Farm Labor*

Contractor Certificate of Registration  
1215-0038; WH-510-MIS

Annually

Individuals or households; Farms;

Business or other for-profit;

Small businesses or organizations

8,100 responses; 4,050 hours; 1 form

The Migrant and Seasonal Agricultural Worker Protection Act provides that no person shall engage in any farm labor contracting activities unless such person has a certificate of registration from the Secretary specifying the contracting activities which have been authorized.

#### *Employment Standards Administration*

Notice of Termination, Suspension,  
Reduction, or Increase in Benefit  
Payments

1215-0064; CM-908

On occasion

Businesses or other for-profit; Small  
businesses or organizations

8,000 responses; 1,600 hours; 1 form

Coal mine operators who pay monthly benefits must notify DCMWC of any change in benefits and the reason for that change. DCMWC uses this notification to monitor payments to beneficiaries.

#### *Employment and Training Administration*

Customer Survey Data Request

1205-0190; ETA 8562

On occasion

Business or other for-profit; Small  
businesses or organizations

3,703 responses; 3,703 hours

Information is needed for the Secretary of Labor to make determinations of eligibility of petitioning workers to apply for trade adjustment assistance in accordance with Sections 222, 223, and 249 of the Trade Act as amended, affecting manufacturers, wholesalers, retailers and distributors.

#### *Employment and Training Administration*

Producers/Purchasers Survey Data  
Request

1205-0191; ETA 8566

On occasion

Businesses or other for-profit; Small  
businesses or organizations

44 responses; 78 hours

The purpose of this data collection is to acquire aggregate statistics needed by the Secretary of Labor to make determinations of eligibility of petitioning workers to apply for worker trade adjustment assistance in accordance with section 223 of the Trade Act of 1974 as amended.

#### *Employment and Training Administration*

Standard Questionnaire for  
Manufacturing Firms

1205-0194; ETA 8561 A/B/C

As needed

Businesses or other for-profit; Small  
businesses or organizations

700 respondents; 2,800 hours; 1 form

Data and information needed to prepare Secretary of Labor reports to the President under Sections 202 & 224 of the Trade Act of 1974 as amended which are used in determining type(s) of import relief, if any, to be granted to import impacted industries.

#### *Employment and Training Administration*

Business Confidential Data Request

1205-0197; ETA 8572, 8573-

A,B,C,D,E,F,G,H,AA,BB,DD

On occasion

Business or other for-profit; Small  
businesses or organizations

414 respondents; 828 hours; 2 forms

Statutory requirements under the Trade Act of 1974 as amended require complete and accurate business confidential data in order to make determination as to whether imports have contributed to worker separation. The Secretary of Labor's determinations decide if petitioning workers are eligible to apply for worker adjustment assistance.

#### *Mine Safety Health Administration*

Torque Tests of Roof Bolts  
(Underground Coal Mines)

1219-0099 (30 CFR 75.200-7(b)(iii))

Daily

Business or other for-profit; Small  
businesses or organizations

2,100 responses; 124,950 hours

Requires underground coal mine operators to spot-check roof bolts, on a daily basis, and to keep a record of the results of the tests.

#### *Reinstatement*

#### *Employment Standards Administration*

Vehicle Mechanical Inspection Report  
for Transportation Subject to  
Department of Transportation  
Requirements (WH-514); Vehicle  
Mechanical Inspection Report for  
Transportation Subject to Department  
of Labor Safety Standards (WH-514a)

1215-0036; WH-514 and WH-514a  
Annually

Individuals or households; Farms;

Businesses or other for-profit;

Small businesses or organizations

2,100 responses; 1,575 hours; 2 forms

The Migrant and Seasonal Agricultural Worker Protection Act requires any person who intends to transport workers to submit a statement identifying the vehicle used, and proof that such vehicle conforms to certain safety requirements.

Signed at Washington, D.C., this 1st day of April 1986.

Reggie Moore,

Acting Departmental Clearance Officer.

[FR Doc. 86-7532 Filed 4-3-86; 8:45 am]

BILLING CODE 4510-30-M

#### *Employment and Training Administration*

[TA-W-16,275]

#### *Prometech Co., St. Marys, PA; Dismissal of Application for Reconsideration*

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Prometech Company, St. Marys, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-16,275; Prometech Company, St. Marys, Pennsylvania (March 27, 1986)

Signed at Washington, DC, this 27th day of March 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment  
Assistance.

[FR Doc. 86-7531 Filed 4-3-86; 8:45 am]

BILLING CODE 4510-30-M

#### *Employment Standards Administration Wage and Hour Division*

#### *Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination; Decisions*

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They



specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by

contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

#### Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

	Decisions	Page No.
<b>Volume I</b>		
District of Columbia	DC86-1 (Jan. 3, 1986)	80.
Georgia	GA86-1 (Jan. 3, 1986)	208.
Massachusetts	MA86-1 (Jan. 3, 1986)	347-351.
Massachusetts	MA86-2 (Jan. 3, 1986)	362-365.
Massachusetts	MA86-3 (Jan. 3, 1986)	375-378.
Maryland	MD86-1 (Jan. 3, 1986)	384-388
North Carolina	NC86-9 (Jan. 3, 1986)	509.
North Carolina	NC86-16 (Jan. 3, 1986)	525.
New York	NY86-2 (Jan. 3, 1986)	650.
New York	NY86-6 (Jan. 3, 1986)	684.
New York	NY86-9 (Jan. 3, 1986)	723.
New York	NY86-15 (Jan. 3, 1986)	763-764.
Virginia	VA86-3 (Jan. 3, 1986)	1061.
Virginia	VA86-15 (Jan. 3, 1986)	1089-1090.
<b>Volume II</b>		
Iowa	IA86-3 (Jan. 3, 1986)	36.
Iowa	IA86-4 (Jan. 3, 1986)	40.
Iowa	IA86-5 (Jan. 3, 1986)	47.
Iowa	IA86-6 (Jan. 3, 1986)	53.
Iowa	IA86-7 (Jan. 3, 1986)	56.
Iowa	IA86-9 (Jan. 3, 1986)	60.
Illinois	IL86-1 (Jan. 3, 1986)	62, 64, 67-68, 70, 73, 78.
Illinois	IL86-2 (Jan. 3, 1986)	88-89, 91.
Illinois	IL86-3 (Jan. 3, 1986)	105.
Illinois	IL86-4 (Jan. 3, 1986)	111.

	Decisions	Page No.
Illinois	IL86-6 (Jan. 3, 1986)	121.
Illinois	IL86-10 (Jan. 3, 1986)	144.
Illinois	IL86-14 (Jan. 3, 1986)	173.
Illinois	IL86-19 (Jan. 3, 1986)	218.
Michigan	MI86-1 (Jan. 3, 1986)	385-398.
Michigan	MI86-3 (Jan. 3, 1986)	410.
Michigan	MI86-6 (Jan. 3, 1986)	443.
Michigan	MI86-12 (Jan. 3, 1986)	471-476.
Montana	MT86-5 (Jan. 3, 1986)	497-498.
Montana	MT86-7 (Jan. 3, 1986)	507-510.
Montana	MT86-8 (Jan. 3, 1986)	525, 527-531.
Texas	TX86-1 (Jan. 3, 1986)	842.
Texas	TX86-5 (Jan. 3, 1986)	854.
Texas	TX86-7 (Jan. 3, 1986)	861-862.
Texas	TX86-9 (Jan. 3, 1986)	868.
Texas	TX86-10 (Jan. 3, 1986)	871.
Texas	TX86-14 (Jan. 3, 1986)	881.
Texas	TX86-17 (Jan. 3, 1986)	889.
Texas	TX86-18 (Jan. 3, 1986)	892.
<b>Volume III</b>		
Arizona	AZ86-2 (Jan. 3, 1986)	18-28.
Arizona	AZ86-3 (Jan. 3, 1986)	30-33.
Idaho	ID86-1 (Jan. 3, 1986)	132.
Montana	MT86-1 (Jan. 3, 1986)	153.
Oregon	OR86-1 (Jan. 3, 1986)	257-259, 264.
Washington	WA86-1 (Jan. 3, 1986)	299-303, 306.

#### General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office,  
Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is \$277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for



the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 28th day of March 1986.

James L. Valin,

*Assistant Administrator.*

[FR Doc. 86-7278 Filed 4-3-86; 8:45 am]

BILLING CODE 4510-27-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[86-261]

### NASA Advisory Council (NAC), Space and Earth Science Advisory Committee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of an informal planning subgroup of the NAC Space and Earth Science Advisory Committee (SESAC).

**DATE AND TIME:** April 24, 1986, 12 Noon to 5:30 p.m.; April 25, 1986, 8:30 a.m. to 5 p.m.; April 26, 1986, 8:30 a.m. to 5 p.m.

**ADDRESS:** Pennsylvania State University, 244 Dieke Building, Dean's Conference Room, University Park, Pennsylvania 16802.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1410).

**SUPPLEMENTARY INFORMATION:** The NAC Space and Earth Science Advisory Committee consults with and advises the Council and NASA on plans for, work in progress on, and accomplishments of NASA's Space and Earth Science programs. The committee, chaired by Dr. Louis Lanzerotti, operates both through a number of informal subgroups and as a whole. This informal planning subgroup will meet to assess the progress of the Space and Earth Science Advisory Committee (SESAC) study on "The Structure of the Space and Earth Science Program In A Time of Transition" to prepare a first draft of the report which will be considered by the full committee at its June meeting. The meeting will be open to the public up to the seating capacity of the room (approximately 20 persons, including committee members and other participants).

Type of Meeting: Open.

Richard L. Daniels,

*Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.*

March 26, 1986.

[FR Doc. 86-7456 Filed 4-3-86; 8:45 am]

BILLING CODE 7510-01-M

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Qualifications Review Panel for the Position of Director, John Fitzgerald Kennedy Library; Meeting

Notice is hereby given that the Qualifications Review Panel for the Position of Director, John Fitzgerald Kennedy Library, will meet on Monday, April 21, 1986, at 10:30 a.m. at the Kennedy Library, Columbia Point, Boston, Massachusetts. This is a rescheduling of the meeting announced in the March 7, 1986 *Federal Register* (51 FR 8052) and cancelled by a notice published in the March 25, 1986 *Federal Register* (51 FR 10287).

The agenda for the meeting will be:

1. Discuss personnel procedures leading to the selection of the Director.
2. Discuss qualifications of those who have applied for the position.

The meeting will be closed to the public in accordance with 5 U.S.C. 552b(6) in order to avoid unwarranted invasion of the personal privacy of the applicants.

Dated: April 2, 1986.

Frank G. Burke,

*Acting Archivist of the United States.*

[FR Doc. 86-7687 Filed 4-3-86; 8:45 am]

BILLING CODE 7515-01-M

## NATIONAL SCIENCE FOUNDATION

### Advisory Panel for Biochemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, The National Science Foundation announces the following meeting.

Name: Advisory Panel for Biochemistry.

Date: Monday and Tuesday, April 21 and 22, 1986, from 9:00 am to 5:00 pm.

Place: University of California-Berkeley Campus, Berkeley, CA.

Type of Meeting: Closed.

Contact Persons: Ira Wool or H. T. Huang, Program Directors, Biochemistry Program, Room 329—Telephone: 202-357-7945.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for Biochemistry research proposals.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: April 1, 1986.

Rebecca Winkler,

*Committee Management Officer.*

[FR Doc. 86-7509 Filed 4-3-86; 8:45 am]

BILLING CODE 7555-01-M

### Advisory Panel for Linguistics; Meeting

In Accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following:

Name: Advisory Panel for Linguistics.

Date and Time: April 21-23, 1986; 9:00 a.m. to 5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, N.W., Room 628, Washington, DC 20550.

Type of Meeting: Part Open—Open 4/23—9:00 a.m. to 12:00 noon, Closed 4/21—9:00 a.m. to 5:00 p.m., Closed 4/22—9:00 a.m. to 5:00 p.m., Closed 4/23—12:00 noon to 5:00 p.m.

Contact Person: Dr. Paul G. Chapin, Program Director, for Linguistics, Room 320, National Science Foundation, Washington, DC 20550; (202) 357-7696.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in linguistics.

Agenda: Open—General discussion of the current status and future plans of the Linguistics Program. Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such



determinations by the Director, NSF, on July 6, 1979.

Dated: April 1, 1986.

M. Rebecca Winkler,  
Committee Management Officer.

[FR Doc. 86-7510 Filed 4-3-86; 8:45 am]

BILLING CODE 7555-01-M

#### Advisory Panel for Social and Developmental Psychology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Social and Developmental Psychology.

Date and Time: April 23-25, 1986, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 1242-A, National Science Foundation, 1800 G Street, N.W., Washington, DC 20550.

Type of Meeting: Part Open—Open 4/23—1:30 p.m. to 3:30 p.m., Closed 4/23—9:00 a.m. to 12:00 noon, Closed 4/24—9:00 a.m. to 5:00 p.m., Closed 4/25—9:00 a.m. to 5:00 p.m.

Contact Person: Dr. Jean B. Intermaggio, Program Director for Social And Developmental Psychology, Room 320, National Science Foundation, Washington, DC 20550; (202) 357-9485.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in Social And Developmental Psychology.

Agenda: Open—April 23, 1:30-3:30 p.m. General discussion of research trends and opportunities in Social And Developmental Psychology.

Closed—to review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c) Government in Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determination by the Director, NSF, on July 6, 1979.

Dated: April 1, 1986.

M. Rebecca Winkler,  
Committee Management Officer.

[FR Doc. 86-7511 Filed 4-3-86; 8:45 am]

BILLING CODE 7555-01-M

#### Advisory Panel for Systematic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended,

Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Systematic Biology.

Date and Time: April 21 and 22, 1986—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1243, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. James E. Rodman, Program Director, Systematic Biology, (202) 357-9588, Room 1140, National Science Foundation, Washington, DC 20550.

Purpose of Panel: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: April 1, 1986.

M. Rebecca Winkler,  
Committee Management Officer.

[FR Doc. 86-7512 Filed 4-3-86; 8:45 am]

BILLING CODE 7555-01-M

#### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-400]

#### Carolina Power and Light Company et al. and Shearon Harris Nuclear Power Plant, Unit 1; Order Extending Construction Completion Date

Carolina Power and Light Company and the North Carolina Eastern Municipal Power Agency (Permittees) are the holders of Construction Permit No. CPPR-158 issued by the Nuclear Regulatory Commission on January 27, 1978 for the Shearon Harris Nuclear Power Plant, Unit 1. This facility is presently under construction at the applicants' site in Wake County, North Carolina.

By letter dated March 16, 1984, the permittees requested an extension from June 1, 1984 to March 1, 1986, citing (1) revised Energy and Load Forecasts

reflecting a slower Rate of growth in customer demand than previously projected, and (2) Carolina Power and Light Company's expanded Conservation and Load Management Program as major factors contributing to the delays. By letter dated January 29, 1986, the permittees requested an extension from March 1, 1986 to June 30, 1987 in order to complete construction and to ensure that commitments and regulatory requirements have been met and to allow for contingencies, beyond the targeted fuel load date of June 1986, such as unforeseen delays in construction or licensing.

The staff has performed an evaluation of the request for extension. Based on this review, the staff has determined that the above factors have resulted in significant delays in construction completion and that the request is for a reasonable period of time when considering the nature of the delays. In addition, the extension of the latest completion date in the construction permit does not involve any significant hazards consideration since the extension will not allow any work to be performed that is not already allowed by the existing construction permit.

Prior public notice of this extension was not required since the Commission has determined that this action involves no significant hazards consideration; good cause has been shown for the delays; and the requested extension is for a reasonable period of time.

Pursuant to 10 CFR 51.32, the Commission has determined that this action will not result in any significant environmental impact (51 FR 9731, March 20, 1986).

The NRC staff's evaluation of the request for extension of the construction permit is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and the Wake County Public Library, Fayetteville Street, Raleigh, North Carolina 27601.

It is hereby ordered that the latest completion date for CPPR-158 be extended from June 1, 1984 to June 30, 1987.

Date of Issuance: March 28, 1986.

For the Nuclear Regulatory Commission,  
Thomas M. Novak,

Acting Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 86-7527 Filed 4-3-86; 8:45 am]

BILLING CODE 7590-01-M



[Docket No. 50-445-CPA and ASLBP No. 86-528-02-CPA]

**Texas Utilities Electric Co. et al.  
Comanche Peak Steam Electric  
Station, Unit 1; New Location for  
Special Prehearing Conference**

March 31, 1986.

Before Administrative Judges: Peter B. Bloch, Chairman, Dr. Kenneth A. McCollom, Dr. Walter H. Jordan.

The Atomic Safety and Licensing Board will convene a Special Prehearing Conference at 9 a.m., April 22, 1986, at the Dallas Hilton (rather than the Fort Worth Hilton, as previously announced), 1914 Commerce Street, Dallas, Texas 75201.

The purpose of the Conference, which the public is welcome to observe, is to consider the arguments of the parties and petitioners concerning the granting of petitions to intervene and the admission of contentions concerning whether or not Texas Utilities Electric Company, et al. has shown good cause for the extension of its construction permit beyond August 1985.

For The Atomic Safety and Licensing Board.

Peter B. Bloch,

*Chairman Administrative Judge.*

Bethesda, Maryland.

[FR Doc. 86-7528 Filed 4-3-86; 8:45 am]

BILLING CODE 7590-01-M

**Regulatory Guides; Issuance and Availability**

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Revision 2 to Regulatory Guide 3.4, "Nuclear Criticality Safety in Operations with Fissionable Materials at Fuels and Materials Facilities," describes procedures acceptable to the NRC staff for preventing accidental criticality in operations with fissionable materials and for validating calculational methods used in assessing nuclear criticality safety.

This revision endorses ANSI/ANS-8.1-1983, "Nuclear Criticality Safety in Operations with Fissionable Materials Outside Reactors," which is a consolidation of ANSI N16.1-1975/ANS-8.1 (endorsed by Revision 1 of Regulatory Guide 3.4) and ANSI N16.9-1975/ANS-8.11 (endorsed by Regulatory Guide 3.41). Therefore, Regulatory Guide 3.41 is being withdrawn. Withdrawal of Regulatory Guide 3.41, however, is in no way intended to alter any prior or existing licensing commitments based on its use.

Regulatory guides may be withdrawn when they are superseded by the Commission's regulations, when equivalent recommendations have been incorporated in applicable approved codes and standards, or when changes in methods and techniques or in the need for specific guidance have made them obsolete.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, telephone (202) 275-2060 or (202) 275-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22151.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland, this 28th day of March 1986.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

*Director, Office of Nuclear Regulatory Research.*

[FR Doc. 86-7526 Filed 4-3-86; 8:45 am]

BILLING CODE 7590-01-M

**OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE**

**Government Purchases of Products  
from Countries Designated Under the  
Caribbean Basin Economic Recovery  
Act; Amendment**

In order to allow time for amendment of the Federal Acquisition Regulations, I hereby amend the notice of February 27, 1986, (51 FR 6964) adding:

This notice shall be effective for requests for proposal issued after April 30, 1986.

Clayton Yeutter,

*United States Trade Representative.*

[FR Doc. 86-7463 Filed 4-3-86; 8:45 am]

BILLING CODE 3190-01-M

**SMALL BUSINESS ADMINISTRATION**

**Minority Small Business and Capital  
Ownership Development; Management  
and Technical Assistance Application  
Announcement**

*Summary:* The Small Business Administration; Office of Minority Small Business and Capital Ownership Development (MSB&COD) announces that it is soliciting applications under its 7(j) Management and Technical Assistance Program to provide a five (5) day high technology training conference for 8(a) contractors in the Dallas-Ft. Worth Metroplex Area. Conference to be held within five (5) months of award. Estimated Federal funding is not to exceed \$45,000.00.

The announcement number is MSB-86-001-03.

*Funding Instrument:* The funding instrument, as defined by the Federal Grants and Cooperative Agreements Act of 1977 (Pub. L. 94-224) will be a cooperative agreement.

*Program Description:* The conference should be designed to accommodate a maximum of fifty (50) participants. Participants are to be provided lodging for five (5) nights, including breakfast and lunch. A registration fee of one hundred and fifty (\$150.00) dollars will be required from each participant. Registration fee will be payable to SBA. Successful offeror will be required to furnish the following:

1. Site selection and rental.
2. Agenda Development.
3. Speakers and Presenters.
4. Local travel to high tech businesses.
5. Registration booth.
6. Mailing of letters of invitation.
7. Acceptance letters.



8. Educational and marketing materials.

9. All other activities required for total coordination of the conference.

10. Reporting Requirements.

(a) Progress reports (original and two copies) describing the planning and scheduling of activities of approval by the SBA Project Officer.

(b) A final report (original and two copies) should be completed by the recipient and delivered to the Government within thirty (30) days of completion of the project.

(c) As a minimum, the final report should include:

(1) Copies of the final package and materials provided to conference participants.

(2) The name, address and types of businesses or individuals participating.

(3) Any particular problems, trends or conditions noted among participants.

(4) Accomplishments as result of conference.

(5) Cost or fees paid by participants.

**Eligible Applicants:** This announcement is a total 100% small business set-aside. Any concern making applications for services is classified as small if its average annual sales or receipts for its preceeding three (3) fiscal years do not exceed \$3.5 million. A concern will be considered a "small business concern" including its affiliates when it qualifies under the criteria set forth in regulations of the Small Business Administration 13 CFR 121.3-8(a): Services.

**Application Materials:** Applications will be forwarded to interested participants upon telephone request (214) 767-7643 or upon written request to the Small Business Administration, Dallas Regional Office, Office of Minority Small Business and Capital Ownership Development, 8625 King George Drive, Building C, Dallas, Texas 75235-3391. All awards will be announced in the Federal Register and the Commerce Business Daily.

**Evaluation and Award Process:** All proposals received as a result of this announcement will be evaluated by an SBA review panel. The awarding of MSB&COD Cooperative Agreement is discretionary. Generally, projects are supported in order of merit to the extent permitted by available funds.

**Disposition of Proposals:** Notification of award will be made by the Grants Management Office, SBA-1441 L Street, NW., Washington, DC 20414. Organizations whose proposals are unsuccessful will be sent an awards list

advising them of the successful awardee.

(59.007 Management and Technical Assistance for Disadvantaged Businesspersons.)

James C. Sanders,  
Administrator.

[FR Doc. 86-7459 Filed 4-3-86; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF TRANSPORTATION Federal Highway Administration Environmental Impact Statement; Scott County, KY

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement is being prepared for a proposed highway project in Scott County, Kentucky.

### FOR FURTHER INFORMATION CONTACT:

Robert E. Johnson, Division Administrator, Federal Highway Administration, 330 West Broadway, P.O. Box 536, Frankfort, Kentucky 40602 or Donald L. Ecton, Director, Division of Planning, Kentucky Transportation Cabinet, 419 Ann Street, Frankfort, Kentucky 40601.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Kentucky Transportation Cabinet, is preparing an environmental impact statement for a highway project located in Scott County, Kentucky. The proposed improvement involves the construction on new location, of a bypass route from the intersection of US 62/US 460 northeast of Georgetown proceeding south, southwest, west, northwest and finally north to a connection with US 460. The proposed route forms a half-circle around the southern perimeter of Georgetown. In doing so, the proposed bypass will cross KY 1962, Southern Railroad, US 25 and US 62 before its connection with US 460 on the west. All crossings will be at grade except at Southern Railroad where a structure will be provided. The bypass is proposed for two lanes initial construction, partially controlled access facility, approximately 6 miles in length.

Possible alternatives under consideration include the: (1) Do-nothing alternative, (2) alternative transportation modes, (3) project postponement, and (4) six alignment alternatives with design options, all in a basic corridor.

Reemphasis on the proposed project is a new development as the result of the site location of a major automobile manufacturing plant in Scott County.

The projected traffic demands and the need for a safe and efficient transportation facility connecting with I-75 to the east is paramount.

One Interdisciplinary Team Meeting has already been held on the proposed project and another is scheduled for May 1986. The proposed project is being coordinated with various Federal, State and Local agencies and officials and other private organizations and parties identified as being impacted by the bypass proposal or having an interest in its development. A formal scoping meeting was held earlier on August 17, 1984. A combined location/design public hearing is planned.

It is estimated that the Draft EIS will be ready for public review in June 1986.

Issued on: March 25, 1986.

Robert E. Johnson,

Division Administrator.

[FR Doc. 86-7523 Filed 4-3-86; 8:45 am]

BILLING CODE 4910-22-M

## National Motor Carrier Advisory Committee;

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on May 6 and 7, 1986, beginning at 9:00 a.m., each day, in Scottsdale, Arizona, at La Posada Resort Hotel, 4949 Lincoln Drive, Town of Paradise Valley, Arizona. The meeting is open to the public.

The agenda includes the following topics: various motor carrier safety issues, status of the Department's legislative proposals, status of various truck studies, implementation of the National Governors' Association Working Groups recommendation on State Motor Carrier Procedures, Uniform Commercial Driver's License, truck size and weight restrictions imposed by States, truck tax issues, truck brake issues, briefing on the Heavy Vehicle Electronic License Plate project (Crescent Study) and a truck-weight-in-motion demonstration.

### FOR FURTHER INFORMATION CONTACT:

Mr. David R. Lukens, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HOA-1, Room 4218, 400 7th Street, SW., Washington, DC 20590, (202) 426-0390. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.



Issued on: April 1, 1986.

R.D. Morgan,

Executive Director.

[FR Doc. 86-7533 Filed 4-3-86; 8:45 am]

[BILLING CODE 4910-22-M]

## National Highway Traffic Safety Administration

### International Harmonization of Safety Standards; Calendar of Meetings

The National Highway Traffic Safety Administration (NHTSA) will continue its participation during this year in the International meetings to Harmonize U.S. and foreign motor vehicle safety standards. These meetings will be conducted by the Group of Experts on the Construction of Vehicles (WP-29) under the Inland Transport Committee of the United Nations' Economic Commission for Europe (ECE) and the eight groups of Rapporteurs of the WP-29. The NHTSA currently represents the United States in all of the rapporteur meetings except those on Pollution and on Noise.

This calendar consists of those ECE meetings currently scheduled. It is published for information and planning purposes and the meeting dates and places are subject to change. NHTSA attendance at these meetings will be affected by agenda content, priorities and availability of travel funds.

Inquiries or comments relating to specific meetings should be made at least two weeks preceding that meeting.

#### FOR FURTHER INFORMATION CONTACT:

Francis J. Turpin, Office of International Harmonization (NOA-05) National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, (202) 426-1590.

April 8-11, 1986

Group of Rapporteurs on Lighting and Light-Signalling (GRE), Fifteenth Session—The Hague, Netherlands.

May 13-16, 1986

Group of Rapporteurs on General Safety Provisions (GRSG), Forty-eight Session—Prague, Czechoslovakia.

May 27-30, 1986

Group of Rapporteurs on Brakes and Running Gear (GRRF), Eighteenth Session—Geneva, Switzerland.

June 5-6, 1986

Ad Hoc Meeting on the Program of Work of (WP29), Thirtieth Session—Geneva, Switzerland.

June 9-13, 1986

Group of Experts on the Construction of Vehicles (WP-29), Seventy-ninth Session—Geneva, Switzerland.

July 1-4, 1986

Group of Rapporteurs on Noise (GRB), Fourteenth Session—Geneva, Switzerland.

August 26-29, 1986

Group of Rapporteurs on Crashworthiness (GRCS), Nineteenth Session—Geneva, Switzerland.

September 2-5, 1986

Group of Rapporteurs on Pollution and Energy (GRPE), Fourteenth Session—Geneva, Switzerland.

September 16-19, 1986

Group of Rapporteurs on Safety Provisions on Motor Coaches and Buses (GRSA), Thirty-third Session—Madrid, Spain (Tentative).

October 16-17, 1986

Ad Hoc Meeting on the Program of Work of WP-29, Thirty-second Session—Geneva, Switzerland.

October 20-24, 1986

Group of Experts on the Construction of Vehicles (WP-29), Eighty Session—Geneva, Switzerland.

November 3-7, 1986

Group of Rapporteurs on Lighting and Light Signalling (GRE), Sixteenth Session—Either Federal Republic of Germany or Belgium—(Place to be confirmed later this year).

November 11-14, 1986

Group of Rapporteurs on General Safety Provisions (GRSG), Forty-ninth Session—Geneva, Switzerland.

November 18-21, 1986

Group of Rapporteurs on Protective Devices (GRDP), Eighteenth Session—Geneva, Switzerland.

December 2-5, 1986

Group of Rapporteurs on Brakes and Running Gear (GRRF), Nineteenth Session—Geneva, Switzerland.

The following meetings took place earlier this year.

January 14-17, 1986

Group of Rapporteurs on Safety Provisions on Motor Coaches and Buses (GRSA), Thirty-Second Session—Geneva, Switzerland.

January 22-24, 1986

Group of Rapporteurs on Crashworthiness (GRCS), Eighteenth Session—Geneva, Switzerland.

January 28-31, 1986

Group of Rapporteurs on Pollution and Energy (GRPE), Thirteenth Session—Geneva, Switzerland.

March 6-7, 1986

Ad Hoc Meeting on the Program of Work of WP-29, Thirtieth Session—Geneva, Switzerland.

March 10-14, 1986

Group of Experts on the Construction of Vehicles (WP-29), Seventy-eighth Session—Geneva, Switzerland.

March 24-27, 1986

Group of Rapporteurs on Protective Devices (GRDP), Seventeenth Session—Geneva, Switzerland.

Issued on April 1, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-7464 Filed 4-3-86; 8:45 am]

BILLING CODE 4910-59-M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirement Submitted to OMB for Review

Dated: April 1, 1986.

The Department of the Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

#### Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0057

Form Number: ATF F 487-B (5170.7)

Type of Review: Reinstatement

Title: Application and Permit to Ship Liquors and Articles of Puerto Rican Manufacture Taxpaid

OMB Number: 1512-0182

Form Number: ATF F 5400.13/5400.16

Type of Review: Extension

Title: Application for License or Permit

OMB Number: 1512-0081



*Form Number:* ATF F 1566A (5130.23)

*Type of Review:* Extension

*Title:* Brewer's Bond Continuation  
Certification

*Clearance Officer:* Robert G. Masarsky  
(202) 566-7641, Bureau of Alcohol,

Tobacco and Firearms, Room 7202,  
Federal Building, 1200 Pennsylvania  
Avenue, NW., Washington, DC 20226

*OMB Reviewer:* Milo Sunderhauf (202)  
395-6880, Office of Management and  
Budget, Room 3208, New Executive  
Office Building, Washington, DC 20503

#### Internal Revenue Service

*OMB Number:* 1545-0742

*Form Number:* None

*Type of Review:* Extension

*Title:* Public Inspection of Exempt  
Organizations Returns (EE-111-80  
Final)

*OMB Number:* 1545-0295

*Form Number:* IRS Form 5064 & Notice  
210

*Type of Review:* Revision

*Title:* 405 MMR Program Media Label  
(Form 5064); and Notice 210—  
Preparation Instructions for Magnetic  
Media Reporting Label, Form 5064

*Clearance Officer:* Garrick Shear (202)

566-6150, Room 5571, 1111

Constitution Avenue, NW.,

Washington, DC 20224

*OMB Reviewer:* Robert Neal (202) 395-  
6880, Office of Management and

Budget, Budget, Room 3208, New

Executive Office Building,

Washington, DC 20503

*Joseph F. Maty,*

*Departmental Reports Management Office.*

[FR Doc. 86-7513 Filed 4-3-86; 8:45 am]

BILLING CODE 4810-25-M



# Sunshine Act Meetings

Federal Register

Vol. 51, No. 65

Friday, April 4, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Securities and Exchange Commission	6

### 1

#### CONSUMER PRODUCT SAFETY COMMISSION

**TIME AND DATE:** 9:30 a.m., Wednesday, April 9, 1986.

**LOCATION:** Third Floor Hearing Room, 1111-18th Street, NW., Washington, DC

**STATUS:** Open to the Public.

**MATTERS TO BE CONSIDERED:** 1. Section 15 Guidelines

The Commission will consider the staff's response to comments on the Statement of Enforcement Policy on Substantial Product Hazard Reports, published in the Federal Register on April 6, 1984.

#### 2. Voluntary Standards: Alternatives for Increased Support

The Commission will consider options for increasing CPSC support of voluntary standards activities, and receive a report from staff on a summary of public comments on these alternatives.

#### 3. FHSA Flammability Definitions and Flashpoint Test Methods: Final Rule

The Commission will consider whether to issue final rules under the Federal Hazardous Substances Act establishing flammability definitions and test methods.

**FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL:** 301-492-5709.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207, 301-492-6800.

April 2, 1986.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 7623 Filed 4-2-86; 2:05 pm]

BILLING CODE 6355-01-M

### 2

#### CONSUMER PRODUCT SAFETY COMMISSION

**TIME AND DATE:** 9:30 a.m., Thursday, April 10, 1986.

**LOCATION:** Third Floor Hearing Room, 1111-18th Street, NW., Washington, DC.

**STATUS:** Closed to the Public.

**MATTERS TO BE CONSIDERED:**

*Management Review: Planning and Budget Process*

Representatives of Price Waterhouse and the staff will brief the Commission on the results of their review of the planning and budget process.

**FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL:** 301-492-5709.

**CONTACT PERSON FOR ADDITIONAL**

**INFORMATION:** Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Sheldon D. Butts,

Deputy Secretary.

April 2, 1986.

[FR Doc. 86-7624 Filed 4-2-86; 2:06 pm]

BILLING CODE 6355-01-M

### 3

#### FEDERAL MARITIME COMMISSION

**TIME AND DATE:** 10:00 a.m., April 9, 1986.

**PLACE:** Hearing Room One, 1100 L Street, NW., Washington, DC. 20573.

**STATUS:** Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

*Portion Open to the Public*

1. Proposed Rule on Exculpatory Provisions in Marine Terminal Tariffs.

*Portions Closed to the Public*

1. Peruvian Cargo Reservation Decree: Possible Action Pursuant to section 19 of the Merchant Marine Act, 1920.

2. United States to Taiwan Trade Inquiry—section 15 Order.

3. Special Dockets Nos. 1375, 1378, 1379, 1381, 1383, and 1412—Consideration of the Records.

**CONTACT PERSON FOR MORE**

**INFORMATION:** John Robert Ewers, Secretary (202) 523-5725.

John Robert Ewers,

Secretary.

[FR Doc. 86-7576 Filed 4-2-86; 11:33 am]

BILLING CODE 6730-01-M

### 4

#### MARINE MAMMAL COMMISSION

**TIME AND DATE:** The Marine Mammal Commission will hold an open teleconference meeting on Friday, April

11, 1986. The meeting will begin at the following times: Washington, DC—2:00 p.m.; San Diego, California—11:00 a.m.; Seattle, Washington—11:00 a.m.; Fairbanks, Alaska—10:00 a.m.

**PLACE:** Teleconference facilities will be located at: Washington, DC—General Services Administration, 18th and F Streets, NW, Room 3210; San Diego, California—U.S. Customs Building, 880 Front Street, Room 4N6; Seattle, Washington—General Services Administration, 915 2nd Avenue, Room 268; Fairbanks, Alaska—Federal Building/U.S. Courthouse, 101 12th Avenue, Room 314.

**STATUS:** The meeting will be open to public observation. Public participation will not be allowed.

**MATTERS FOR DISCUSSION:** Review of Commissioners' areas of emphasis; Commission budget for FY 1987; scheduling of next meeting of Commission and Committee of Scientific Advisors; report on March 26-28 marine mammal/fisheries interactions workshop and follow-up actions; formation and status of Commission working groups; Commission position on ratification of MARPOL Annex V; permit applications PRT-702986 (Rio Grande Zoo), P-375 (Wartzok).

**FOR MORE INFORMATION:** John R. Twiss, Jr., Executive Director, Marine Mammal Commission, 1625 I Street, NW., Washington, DC 20006, 202/653-6237.

Dated: April 2, 1986.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 86-7600 Filed 4-2-86; 12:35 pm]

BILLING CODE 6820-31-M

### 5

#### NATIONAL TRANSPORTATION SAFETY BOARD

**TIME AND DATE:** 9:00 a.m., Thursday, April 17, 1986.

**PLACE:** NTSB Board Room, Eighth Floor, 800 Independence Avenue, S.W., Washington, DC 20594.

**STATUS:** The first two items will be open. The last two items will be closed under Exemption 10 of the Government in the Sunshine Act.

**MATTERS TO BE CONSIDERED:**

1. *Safety Study:* on Training, Licensing and Qualification Standards for Drivers of Heavy Trucks.



2. *Highway Accident Report*: Collapse of the U.S. Chickasawbogue Bridge Spans near Mobile, Alabama, April 24, 1985.

3. *Opinion and Order*: Administrator V. Calavaero, Inc., Docket SE-6542; disposition of the Administrator's appeal.

4. *Opinion and Order*: Administrator v. Heil, Docket SE-6697; disposition of the Administrator's appeal.

**CONTRACT PERSON FOR MORE**

**INFORMATION:** Catherine T. Kaputa (202) 382-6525.

Catherine T. Kaputa,  
Federal Register Liaison Officer.

April 1, 1986.

[FR Doc. 86-7539 Filed 4-2-86; 9:18 am]

BILLING CODE 7533-01-M

**6**

**SECURITIES AND EXCHANGE COMMISSION**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission held a closed meeting on Thursday, March 27, 1986, at 450 5th Street, NW., Washington, DC, to consider the following items.

Formal order of investigation.  
Settlement of injunctive action.

Chairman Shad and Commissioners Peters, Grundfest and Fleischman determined that Commission business

required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Patrick Daugherty at (202) 272-3077.

April 1, 1986.

John Wheeler,  
Secretary.

[FR Doc. 86-7603 Filed 4-2-86; 1:33 pm]

BILLING CODE 8010-01-M







# FRIDAY APRIL 4, 1986

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Friday  
April 4, 1986

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## Part II

### Office of Personnel Management

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5 CFR Part 950

Solicitation of Federal Civilian and  
Uniformed Services Personnel for  
Contributions to Private Voluntary  
Organizations; Final Rule



# OFFICE OF PERSONNEL MANAGEMENT

## 5 CFR Part 950

### Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations

**AGENCY:** Office of Personnel  
Management.

**ACTION:** Final rule.

**SUMMARY:** The United States Office of Personnel Management (OPM) is issuing revised regulations governing solicitation of Federal civilian and uniformed services personnel for contributions to private voluntary organizations under the authority of Executive Order Nos. 12353 (March 23, 1982), Charitable Fund-Raising, 47 FR 12785 (March 23, 1982), and 12404 (February 10, 1983), Charitable Fund-Raising, 48 FR 6685 (February 15, 1983). These regulations provide a system for administering the annual charitable solicitation campaigns conducted by Federal personnel in their Government workplaces and set forth ground rules under which charitable organizations may receive contributions from Federal personnel through the Combined Federal Campaign.

**EFFECTIVE DATE:** May 5, 1986.

**FOR FURTHER INFORMATION CONTACT:** Clifford J. White III, Assistant General Counsel of the Office of Personnel Management, (202) 632-4632, as to matters in litigation; and Ronald E. Brooks, Assistant to the Director for Regional Operations, (202) 632-5544, as to the Combined Federal Campaign in general.

**SUPPLEMENTARY INFORMATION:** On Thursday, August 22, 1985, OPM published a Notice of Proposed Rulemaking in the *Federal Register*, 50 FR 33960, to revise regulations, codified at 5 CFR Part 950, governing the conduct of the Combined Federal Campaign (CFC). The revised regulations were proposed to implement Executive Order Nos. 12353 and 12404 that require OPM to administer a single annual charity drive among Federal civilian and uniformed services personnel in the Federal workplace in which participation is limited to traditional human health and welfare charities. After a long series of legal disputes, the United States Supreme Court upheld the constitutionality of the Executive Orders, thereby removing any obstacles to their prompt implementation. See *Cornelius v. NAACP Legal Defense and Educational Fund, Inc.*, 473 U.S. —, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985). The

Supreme Court also remanded the case back to United States District Court to consider the issue of whether or not exclusion from the Campaign, pursuant to the President's Orders, of respondent legal defense and political advocacy groups "was impermissibly motivated by a desire to suppress a particular point of view." *Id.* at 23. Proceedings on the remand are still pending, but no judicial action has relieved OPM of the responsibility to take care that the President's Orders are faithfully carried out.

Consequently, it is the duty of OPM to issue final rules governing the Combined Federal Campaign that are faithful to the relevant Executive Orders, now judicially vindicated. These new rules are intended to control the 1986-87 and all subsequent Campaigns.

### Broad Public Support of Proposed Rules

OPM has received more than 600 comments on the proposed rules that were published on August 22, 1985. Approximately 90 percent of all comments were favorable, reflecting broad support of the proposed regulations from all categories of interested parties: *i.e.*, charities that raise funds through the Campaign; labor unions; members of Congress, including the Speaker of the House of Representatives; major corporate executives experienced in private sector charitable fundraising (including General Motors, Ford, and Chrysler; the Mobil Corporation, RCA, General Electric, Citicorp, and many others); and Federal officials around the country who must manage the CFC.

The features of the proposed rules that are most attractive to the commenters are the limitation of participation in the Campaign to voluntary agencies that provide direct assistance to the needy in this country and overseas; the relative simplicity of the regulations in contrast to previous rules; and elimination of the "write-in" feature whereby contributors could donate through the CFC to charities not admitted into the local Campaign. Following are brief excerpts from the favorable comments received:

- "[We are] in strong philosophical support of the regulations because they return the Combined Federal Campaign to the more traditional focus of providing for true health and welfare agencies. . . . [W]e also applaud the new regulations because they are more concise than in years past." (Denver, Colorado, Federal Executive Board).
- "These new rules will return the focus of the campaign on supporting local

health and direct human services to help people in need. In so doing, it will also reduce costs, minimize disruption in the federal workplace and ensure the success of the fund-raising effort." (James Joy, Jr., President, Utility Workers Union of America).

- "The CFC represents our commitment to improving the quality of life in our community. Therefore, I believe that it is important to ensure that our limited CFC dollars go to those agencies that provide support for our human resources through direct health and welfare services." (Robert T. Matsui, Member of Congress).
- "[T]he American Red Cross actively supported the President's 1983 Executive Order No. 12404 and the implementing [r]egulations thereunder limiting participation. . . to health and welfare agencies. . . . We, therefore, fully support the proposed regulations. . . ." (Ervin R. Oberschmidt, Vice President, American Red Cross).
- "The Directors [of the National Voluntary Health Agencies] unanimously feel the proposed rules [are] a very significant improvement. . . . The 1984 rules were, and are, unwieldy; increase the cost of the campaign; and nearly bring the CFC to the unmanageable stage, at least for the larger campaigns." (James A. Fitzgerald, Jr., Chairman, National Voluntary Health Agencies).
- "Among the key issues in the regulations should be the reinstating of the system and eligibility criteria used in the 1983 Combined Federal Campaign. I would also strongly urge that legal defense funds and advocacy groups be excluded from eligibility, and that contributor write-ins of any 501(c)(3) Health and Welfare organizations no longer be permitted." (John Sagan, Vice President and Treasurer, Ford Motor Company).
- "[T]he new rules will help to insure the integrity of the agencies allowed to participate through specific eligibility criteria. This will create confidence in the potential contributor knowing that his or her dollar will be utilized in the most effective way possible." (Robert R. Frederick, President and Chief Executive Officer, RCA).

### Suggested Revisions in Final Rules

Many of the commenters who expressed support for the new regulations also made constructive suggestions for changes in the final rules. These comments were carefully considered and, in several instances, adopted. Among the more important



improvements to the proposed rules are the following:

- Several commenters, including the Financial Accounting Standards Board and the American Institute of Certified Public Accountants, recommended that OPM impose a requirement that participating charities conform with "generally accepted accounting principles" instead of the less utilized *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Agencies*. This recommendation is accepted and reflected in the final rules herein promulgated.
- The International Service Agencies (ISA) federated group pointed out that the provision contained in 5 CFR 950.303(c)(5) requiring a voluntary agency whose fund-raising and administrative expenses exceed 25 percent of its total public support to demonstrate that such expenses "were reasonable in light of all the circumstances" would work a potential hardship on those charities that receive large sums in government grants. ISA reasons that the cost of administering these grants should not be compared with an organization's total public support (which does not include Government funding), but against total public support and revenue (which does include Government grant money). Although this recommended change would have the effect of loosening the financial accountability standards, OPM agrees to the change in order to avoid any unnecessary hardship on otherwise qualified voluntary agencies that incur large overhead expenses to administer government grants.
- There was much controversy over the role of the Principle Combined Fund Organizations (PCFOs) in Campaign management. Comments were divided between those charities that recommended a stronger role for PCFOs in Campaign management and those that wished to decrease the discretion (e.g., with respect to distribution of deemed designated funds) of the PCFOs. OPM has decided to retain the basic Campaign structure used in past years by which, in the spirit of deregulation and consistent with the nature of a voluntary fund-raising effort, the Federal Government maintains overall authority over the CFC, but leaves the day-to-day operations of the Campaign outside the Federal workplace to the charities themselves. The participating charities, and in particular those agencies selected as

PCFOs, have much more expertise in and are in a much better position than Federal officials to operate a fund-raising Campaign. The final rules do clarify, however, that deemed designated funds may be distributed by the PCFOs to overseas service organizations, as well as those voluntary agencies that provide services domestically.

- In response to public comments, as well as to a recommendation made by the General Accounting Office (GAO) in its most recent evaluation of the CFC, OPM has added a provision in the final rules to encourage PCFOs to place CFC contributions into interest bearing accounts.
- Also in response to public comments and a GAO recommendation, the final rules include a provision clarifying the duty of the PCFO to make diligent efforts to contact contributors who improperly fill out their pledge cards.

Among the more significant recommendation for amendment of the rules that OPM is not adopting is a suggestion to reduce the level of confidentiality of gifts made through the CFC. OPM continues to prohibit Federal employees (except where necessary to honor payroll deductions) from opening sealed envelopes containing contributor pledge cards. Also, recipient charities may not receive copies of contributor names and addresses. Executive Order No. 12353 requires that the Director of OPM "ensure that all contributions are voluntary, that there is no coercion, and that individuals have the option of disclosing their contribution or keeping it confidential. . . ." The voluntary decisions of employees concerning whether or not to contribute, how much to contribute, and to which charities to contribute, must be respected in all instances. In addition, Federal employees should be protected against disclosure of their names and home addresses to charities that may use such information for future solicitations or for rental to other commercial or non-profit organizations that may wish to send other unsolicited mail to the employee.

Some commenters, who were generally supportive of the proposed rules and particularly of their provisions relating to eligibility, suggested that OPM require national voluntary agencies to join federated groups or participate in federated arrangements as a condition of admission to the CFC. OPM recognizes that three federated groups were initially brought into being by and to serve the CFC. These federated groups are now entirely private organizations, however, free to establish their own membership rules,

govern themselves, and develop separate appeals to donors.

Consequently, OPM concludes that it would be inappropriate to compel any charity to affiliate involuntarily with any other organization simply to receive CFC privileges. Hence these rules will continue to permit unaffiliated voluntary agencies, that are otherwise eligible for admission to the CFC, to participate.

Other commenters, also generally supportive of the proposed rules, suggested that OPM require Principal Combined Fund Organizations to redistribute gifts designated and deemed designated to them in accordance with groundrules to be specified by OPM or local Federal officials. A variety of schemes and formulae for this purpose were put forward. Advocates of compulsory redistribution arrangements suggest revisitation of the decision, now 5 years old, to abolish the practice of receiving undesigned gifts and to permit donors, upon notice, to allow their gifts to be deemed designated to a PCFO. They contend that this feature of the CFC is unfair to organizations other than the PCFO and that, in view of the fact that in the great majority of localities the PCFO is an affiliate of United Way of America, an unfair benefit to United Way. OPM has carefully considered these views and the facts upon which they are based and has determined to retain the present system on point. There are several reasons for this. First, the "deemed designated" system has the distinct advantage of removing OPM and Government officials, other than in their individual capacities as voluntary donors, from any process of allocating other people's gifts. Decisions as to who will receive donations now remain entirely in the hands of individual donors and of charitable organizations. Second, OPM believes that the idea behind the "deemed designated" system—that donors are aware that their gifts, if not otherwise designated for a particular recipient, are channeled to the PCFO—is no mere fiction, but is a fact. Federal employees are an intelligent, well educated population, who appear to understand fully the notices regarding designation and "deemed designated" funds that they are given in CFC literature and on their contribution cards. Third, notwithstanding the fact that express designations have risen dramatically and that the "deemed designated" pool of contributions has correspondingly shrunk, United Way PCFO's have generally continued to share "deemed designated" funds with other charities and federated groups, not members of



United Way, at roughly historical levels. United Way PCFOs have not been commanded by OPM to do so, but they have generally continued the practice of sharing these proceeds and they appear to do so on grounds of goodwill, comity, common sense, common advantage, and genuine philanthropy. OPM has every reason to believe that United Way PCFOs will continue on a voluntary basis to share "deemed designated" gifts with other groups, and therefore finds no reason to change this aspect of the *status quo*.

OPM continues to reject suggestions that employees no longer be encouraged to designate to individual charities. It is essential to the integrity of the Campaign that contributors know that their donations will go to the charities of their choice and that contributions not designated to particular charities will be deemed designated to the PCFO so that the PCFO may distribute such funds according to community, national, and international needs. This system has worked well in the past and remains unaltered in these regulations.

Finally, some commenters proposed that health research organizations be treated like overseas service organizations by being relieved entirely of any obligation to show local presence. OPM has decided to retain the rules on point as proposed. Although health research may occur at places quite remote from a local CFC area, the contributions and achievements of the health research organization can be expected, not unreasonably, to show tangible local effects over time. By contrast, overseas efforts can be assessed at home only in the most general terms of foreign policy, national security, and humanitarian satisfaction. These are not readily susceptible to proper evaluation at the local CFC level. In any event, OPM believes that the local presence criteria as proposed, which themselves represent significant refinements of the rules applied in prior years, will not unduly impede participation in the CFC by *bona fide* health research organizations. Should actual experience prove this expectation erroneous, OPM will always entertain constructive proposals for improvement.

#### Opposition to the Regulations

Given the controversy that has surrounded the CFC in recent years, and the substantial litigation that has hampered the efficient conduct of the Campaign, it is not surprising that OPM received comments from organizations, particularly those groups fearing exclusion from future Campaigns and individuals, including some members of Congress, who opposed the proposed

rules. Many of the commenters who wrote in opposition to the regulations are, in fact, opposed to the Executive Orders upon which these regulations must, under the law, be based. Nonetheless, many of these comments were thoughtful and all received careful scrutiny.

Among the more notable suggestions made was to eliminate the percentage limitations on expenditures for lobbying and advocacy activities. Such comments were not confined to those opposing the proposed rules, but were, to some degree, shared by some traditional charities concerned about the possibility of expending funds for advocacy services that may directly serve the needs of human health and welfare. OPM continues to maintain, however, that numerical guidelines remain necessary if the regulations are to give effect to Executive Order provisions that limit the Campaign to traditional charities. Furthermore, the regulations do not contain absolute numerical tests. Applicants whose expenditures exceed the levels set out in the rules may demonstrate special circumstances and may still be admitted into the Campaign.

In restating its strong position that the Government should not restrict admission of any charity into the CFC, the NAACP Legal Defense and Educational Fund, Inc. (NAACP-LDEF), commented that "each individual is deemed responsible enough not to need the guidance of federal bureaucrats as to what they should do with their own funds." In response to the argument that a totally open Campaign would be costly for the Government to administer, the NAACP-LDEF said that "it would be willing to have the government recoup all expenses, both direct and indirect, from CFC receipts so that all such costs would be fully reimbursed by the participating organizations." The latter suggestion is worthy of further study, but OPM is not prepared at this time to increase dramatically the overhead charges levied against the employee contributions.

Several commenters also objected to the "local presence" criterion for admission by domestic charities into local Campaigns. Adoption of this suggestion would require amendment of Executive Order No. 12404. Furthermore, the CFC can be operated much more efficiently if limited to those charities that provide services to the citizens in the community in which the funds are raised. It is simply not realistic, as shown by experience in the last two "open" Campaigns, to permit charities that operate in only one small segment of the country to solicit funds

nationwide. Federal employees are unfamiliar with such organizations and the size of the contributor information leaflet would quickly become of confusing and unmanageable proportions.

Finally, there was concern among a certain segment of the charitable community over the differences in the admission systems for domestic voluntary agencies and overseas service organizations (OSOs). Whereas domestic federations may certify that their members meet the substantive and operational eligibility criteria, OSOs must apply for admission individually to OPM. The differences in the application procedures for domestic and overseas service charities are retained in the final rules. We find the rationale behind this dual admission system to be compelling. Domestic voluntary agencies that receive certification from their federations must still individually demonstrate local presence to each local CFC in which they wish to solicit funds. If overseas service organizations, which are exempt from the local presence test, were to receive eligibility certification from a federated group, then neither OPM nor the local Federal Coordinating Committees would have the opportunity (barring unusual circumstances) to review individual applications. Given the nature of OSOs and the significant impact of their policies and practices on United States foreign policy, it is especially important that their applications be closely scrutinized by OPM. In addition, the burden of demonstrating eligibility for the CFC is lighter on an overseas service organization than it is on a domestic charity. Both OSOs and domestic charities must prepare one basic application. But, as aforementioned, domestic charities will have to submit additional materials proving local presence to each local Federal Coordinating Committee to whose Campaign it seeks admission. OSOs need not submit any application beyond the one filed with OPM.

#### Final Rules Remain Faithful to Executive Order

In response to the comments received, the final rules herein promulgated incorporate several important improvements from the proposed rules. The basic provisions contained in the proposed rules concerning the structure and operation of the Campaign, however, remain essentially unaltered. These final rules are faithful to the relevant Executive Orders that OPM is bound to implement and are designed to create a more efficient Combined



Federal Campaign that will increase the number of contributors from past years and the amount of funds collected for the worthy charitable organizations that may receive donations through the CFC.

#### Scope

This part governs all fund-raising by private voluntary charitable agencies among Federal employees and members of the uniformed services of the United States at their place of work or duty. Thus it is applicable to civilian and uniformed personnel in all Executive departments and agencies throughout the world.

#### E.O. 12291, Federal Regulation

After a careful review of the proposed rulemaking, including the analysis set forth below, for purposes of the Regulatory Flexibility Act, OPM has determined that this is not a major rule for purposes of Executive Order No. 12291, Federal Regulation, because it will not result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Regulatory Flexibility Act

##### (1) Reasons Why Action by Agency Is Being Considered

OPM promulgates these new rules because President Reagan's Executive Order No. 12404 has been held constitutional by the Supreme Court of the United States, thereby reversing an adverse decision in the Circuit Court of Appeals. OPM is now required to publish final rules for charitable solicitation in the Federal workplace that conform to that Order and that, therefore, among other things, limit the privilege of solicitation to charities that help to lessen the burdens of government, lessen the disruption of the Federal workplace, and avoid the appearance of political favoritism by the Government without regard to the viewpoint of any excluded groups or agencies. These new regulations will permit the Government once again to conduct the CFC in accordance with its traditional goals.

##### (2) Objectives of and Legal Basis for Rule

These regulations are issued under Executive Order Nos. 12353 and 12404.

The objective of these regulations is to provide for a system of administering the annual charitable solicitation drives among Federal civilian and military employees in a single Combined Federal Campaign, and to set forth ground rules under which charitable organizations receive gifts through the CFC.

##### (3) Number of Small Entities Covered Under Rule

The rule would apply to all human health and welfare organizations that apply to participate in the Combined Federal Campaign.

##### (4) Reporting, Recordkeeping and Other Compliance Requirements of the Rule

The new rules revive, for the most part, the reporting, recordkeeping, and other requirements that were issued as final rules in 1983. The paperwork burden is kept to the minimum necessary to be consistent with the governing Executive Orders.

Although the new rules require local Federal Coordinating Committees to publish official lists of qualified charities, the size of the lists will be manageable, insofar as the new regulations limit participation in the CFC to traditional human health and welfare charities. The information that must be supplied by the participating agencies is minimal and requires no additional collection of data.

The rules assure the free choice of the employee to contribute to those agencies authorized to participate in the CFC. Certainly, the Government has no obligation to subsidize charities that do not meet the human health and welfare standards set forth in the relevant Executive Order. These regulations in no way inhibit solicitations by any organization that may wish to conduct a fund-raising drive other than in the Federal workplace. Thus, there is no regulatory burden placed upon ineligible agencies and the burden imposed on participating organizations is minimal, especially in light of the extremely cost-efficient system provided for the solicitation of Federal personnel.

##### (5) Relevant Federal Rules Duplicating, Overlapping, or Conflicting With the Rule

There are no duplicating, overlapping, or conflicting Federal rules that apply to the CFC.

##### (6) Differing Compliance or Reporting Requirements

The campaign arrangements that were used in 1984 and 1985 are fundamentally inconsistent with Executive Order No. 12404. In addition, the 1984 and 1985 rules, which permitted nearly all tax-

exempt charities to solicit funds through the CFC, proved unduly controversial, disruptive to the Federal workplace, and costly to administer.

##### (7) Clarification, Consolidation, and Simplification of Compliance and Reporting Requirements

As has been noted, the new rules would revive the compliance and reporting requirements for small entities substantially as they were contained in the 1983 rules.

##### (8) Use of Other Standards

Appropriate alternative standards are not available that would impose less burdensome regulations.

##### (9) Exemption of Small Entities From Coverage

Exemptions from coverage for small entities is not practical because many of the eligible voluntary agencies are small entities, and exception for those groups would frustrate the major purposes of Executive Order No. 12404: to generate support for broad-based human health and welfare agencies that provide services directly to people who need them; to end the reality and the appearance of partisanship in, and politicization of, the Campaign; to minimize the burdens of government at all levels; and to operate the Campaign as efficiently and economically as possible. As a result of the above Regulatory Flexibility Analysis, I have determined that the rule will not have any significant detrimental economic impact on a substantial number of small entities.

#### List of Subjects in 5 CFR Part 950

Charitable solicitation, Government employees, Military personnel, Non-profit organizations.

Accordingly, OPM revises 5 CFR Part 950 to read, in its entirety, as follows:

#### PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICES PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS

##### Subpart A—General Provisions

- |         |   |
|---------|---|
| Sec.    |   |
| 950.101 | Definitions.                                  |
| 950.103 | Establishment and objectives of the campaign. |
| 950.105 | General principles.                           |
| 950.107 | Federal policy on civic activity.             |

##### Subpart B—Organization of the Campaign

- |         |  |
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| 950.201 | The Director.                          |
| 950.203 | Heads of Federal agencies.             |
| 950.205 | Local Federal Coordinating Committees. |



## Sec.

- 950.207 Principal Combined Fund Organization.
- 950.209 Special provisions for overseas and military campaigns.
- 950.211 National coordination and reporting.
- 950.213 Appeals from decisions of Local Federal Coordinating Committees.

**Subpart C—Conduct of the Campaign**

- 950.301 Campaign periods.
- 950.303 Admission of eligible voluntary agencies.
- 950.305 Application procedures.
- 950.307 Special rules applicable to the American Red Cross.
- 950.309 Prohibition of misleading identification.

**Subpart D—Solicitation and Campaign Materials**

- 950.401 Contributor's information leaflet.
- 950.403 Listing of voluntary agencies.
- 950.405 Other campaign publicity materials.
- 950.407 Coincident non-campaign activities.

**Subpart E—Contributions, Distributions, and Accounting**

- 950.501 Designation of contributions.
- 950.503 Privacy of contributions.
- 950.505 Election as to means of giving.
- 950.507 Contribution card.
- 950.509 Central receipt and accounting for contributions.
- 950.511 Payroll withholding.

Authority: E.O. No. 12353 (March 23, 1982), 47 FR 12785 (March 25, 1982), 3 CFR, 1982 Comp., p. 139, and E.O. No. 12404 (February 10, 1983), 48 FR 6685 (February 15, 1983), 3 CFR 1984 Comp., p. 151.

**Subpart A—General Provisions****§ 950.101 Definitions.**

(a) "Combined Federal Campaign" or "Campaign" or "CFC" shall mean the fund-raising program established and administered by the Director pursuant to Executive Order No. 12353, as amended by Executive Order No. 12404, and all subsidiary units of such program;

(b) "Community" shall mean a community that is defined either by generally recognized geographic bounds or by its relationship to an isolated government installation;

(c) "Direct Contributions" shall mean gifts, in cash or in donated in-kind material, given by individuals and/or other non-governmental sources directly to the spending health and welfare organization.

(d) "Director" shall mean the Director of the United States Office of Personnel Management, or his delegate;

(e) "Domestic Area" shall mean the several United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(f) "Employee" shall mean any person employed by the Government of the United States or any branch, unit, or instrumentality thereof, including

persons in the civil service and in the uniformed services;

(g) "Federation" or "Federated Group" shall mean a voluntary charitable health and welfare agency consisting of two or more other voluntary charitable health and welfare agencies and organized for purposes of supplying common fundraising, administrative, and management services to its constituent members.

(h) "Indirect Contributions" shall mean gifts, in cash or in donated in-kind material, given to the spending health and welfare organizations by another health and welfare organization, but not transfers, dues, or other funds from affiliated organizations or local, State, or Federal governments.

(i) "Local Federal Coordinating Committee" or "LFCC" shall mean the group of Federal officials designated by the Director to conduct the CFC in a particular community.

(j) "Overseas Area" shall mean areas other than the domestic area.

(k) "Overseas Service Organization" shall mean a voluntary charitable health and welfare agency whose services are rendered exclusively or in substantial preponderance either in the overseas area or in direct support of the rescue, relocation, and lawful resettlement of persons recognized by the United States Government as refugees or as grantees of political asylum.

(l) "Principal Combined Fund Organization" shall mean the federated group in a local Combined Federal Campaign that has been selected to manage and administer the local Combined Federal Campaign, subject to the direction and control of the local Federal Coordinating Committee and the Director.

(m) "Voluntary Charitable Health and Welfare Agency" or "Voluntary Charitable Agency" or "Voluntary Agency" shall mean a private, non-profit, philanthropic organization, support for which is consistent with the objectives of the Combined Federal Campaign as set forth in Executive Order No. 12404 and § 950.103(b) of these rules, and which meets all eligibility requirements under this part.

**§ 950.103 Establishment and objectives of the campaign.**

(a) *Establishment.* The Combined Federal Campaign shall be the single, comprehensive, annual charitable fund-raising appeal conducted in Federal workplaces, both civilian and military, around the world. It shall be conducted each year under the leadership of the President and the supervision of the Director. In communities where there are 200 or more Federal personnel, there

shall be conducted a local Combined Federal Campaign, and no other solicitations for the benefit of philanthropy shall be permitted in Federal workplaces. In communities where there are fewer than 200 Federal personnel, a Combined Federal Campaign may be conducted at the discretion of the Federal managers and commanders in charge. Each local CFC shall be overseen by the Director, conducted by the local Federal Coordinating Committee, and managed by an organization designated as the Principal Combined Fund Organization. The local Federal Coordinating Committee for each local CFC shall establish administrative arrangements providing for the individual recognition of each participating voluntary charitable agency, the description of each voluntary charitable agency's services, and the allocation of contributions in accordance with the express instructions of donors. Solicitations shall be conducted exclusively by Federal personnel and only Federal personnel shall be solicited.

(b) *Objectives.* The objectives of the Combined Federal Campaign shall be to lessen the burdens of government and of local communities in meeting needs of human health and welfare; to provide a convenient channel through which Federal public servants may contribute to these efforts; to encourage maximum participation and generous giving; to minimize or eliminate disruption of the Federal workplace and costs to Federal taxpayers that such fund-raising may entail; and to avoid the reality and the appearance of the use of Federal resources in aid of fund-raising for political activity or advocacy of public policy, lobbying, or philanthropy of any kind that does not directly serve needs of human health and welfare.

**§ 950.105 General principles.**

(a) *On-the-job Solicitation.* In order to have only one on-the-job solicitation by Federal personnel and of Federal personnel in the Federal workplace each year, individual appeals shall be combined into a single Combined Federal Campaign on behalf of charitable purposes in conformance with the policies and procedures prescribed in this part.

(b) *Campaign Arrangements Established Nationally.* Basic campaign arrangements shall be established by the Director. Local Federal agency heads and local Federal Coordinating Committees shall not vary from the arrangements established by the Director except to the extent that local



variations are expressly provided for in this part.

(c) *Number of Solicitations.* Not more than one on-the-job solicitation of Federal personnel on behalf of charitable purposes shall be made in any year at any Federal location, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Director.

(d) *Solicitation Methods.* Employee solicitations shall be conducted during duty hours using methods that permit true voluntary giving and reserve to the individual the option of disclosing any gift or keeping it confidential. Raffles, lotteries, carnivals, or other fund-raising activities not provided for in this part are strictly prohibited.

(e) *Off-the-job Solicitation.* Many worthy voluntary agencies do not participate in the on-the-job program because they do not wish to join in its coordinated arrangements or because they cannot meet the requirements for eligibility established by Executive Order No. 12404. Such voluntary agencies may solicit Federal employees at their homes and elsewhere outside the Federal workplace as they do other citizens of the community, including through union, veteran, civic, professional, political, legal defense, philanthropic, and other private organizations. In addition, limited arrangements may be made for off-the-job solicitations on military installations and at entrances to Federal buildings, as follows:

(1) *Family Quarters on Military Installations.* Voluntary agencies may be permitted to solicit at private residences or at family quarters in unrestricted areas of military installations at the discretion of the local commander. Such solicitation shall not, however, be conducted by military or civilian personnel in their official capacities, whether during duty or non-duty hours, nor may such solicitation be conducted as a project officially sponsored by the command. This restriction is not intended to prohibit or to discourage military and civilian personnel from participating as private citizens in the activities of voluntary agencies during their off-duty hours.

(2) *Public Entrances of Federal Buildings and Installations.* Voluntary agencies that engage in limited or specialized methods of solicitation, including, but not limited to, the sale of poppies and similar tokens by veterans' organizations, may be permitted to solicit at public entrances or in public concourses of Federal buildings or installations that are normally open to the general public. Solicitation privileges in such cases shall be governed by rules

and policies of the General Services Administration pursuant to the Public Buildings Cooperative Use Act of 1976, Pub. L. 94-541, 40 U.S.C. 490(a)(17), as amended; 41 CFR Subpart 101-20.3—Conduct on Federal Property; 41 CFR Subpart 101-20.7—Occasional Use of Public Areas in Public Buildings; or other applicable legal authorities.

(f) *Prohibited Discrimination.* The Campaign is a means for promoting true voluntary charity among members of the Federal community. Because of the participation of the Government in organizing and carrying out the Campaign, all kinds of discrimination prohibited by law to the Government must be proscribed in the Campaign. Accordingly, discrimination for or against any individual or group on account of race, color, religion, sex, national origin of citizens, age, handicap, or political affiliation is prohibited in all aspects of the management and execution of the Campaign. Nothing herein shall deny eligibility to any voluntary agency, which is otherwise eligible under this part to participate in the Campaign, merely because such voluntary agency is organized by, on behalf of, or to serve persons of a particular race, color, religion, sex, national origin, age, or handicap.

(g) *Prohibited Coercion.* True voluntary giving is of the essence of Federal fund-raising activities. Actions that do not allow free choices or create the appearance that employees do not have a free choice to give or not to give, or to publicize their gifts or to keep them confidential, are contrary to Federal fund-raising policy. The following activities, in particular, offend Federal fund-raising policy and are not permitted in the Combined Federal Campaign:

- (1) Solicitation by supervisors of employees supervised;
- (2) Setting 100 percent participation goals;
- (3) Providing and using contributor lists for purposes other than the routine collection and forwarding of contributions and installment pledges;
- (4) Establishing personal dollar goals and quotas; and
- (5) Developing and using lists of noncontributors.

(h) *Responsible Conduct.* In the event that a voluntary agency fails to adhere to the requirements or to the policies and procedures established in and under this part, upon reasonable notice and an opportunity to be heard, its privilege to receive gifts through a local Combined Federal Campaign may be withdrawn by a local Federal Coordinating Committee, and its privileges with

respect to one, several, or all local Campaigns may be curtailed or withdrawn by the Director.

#### § 950.107 Federal policy on civic activity.

Federal personnel shall be encouraged to participate actively in the work of voluntary agencies—as members of policy boards or committees, heads of local campaign units, or volunteer workers—to the extent consistent with law, Federal agency policy, and prudent use of official time. They shall also be encouraged to devote private time to such volunteer work.

### Subpart B—Organization of the Campaign

#### § 950.201 The Director.

(a) *Policy-making.* Under Executive Orders No. 12353 (March 23, 1982), Charitable Fund-Raising, and No. 12404 (February 10, 1983), Charitable Fund-Raising, the Director shall establish charitable fund-raising policies and procedures in the Executive Branch and may, in consultation with designated leaders from the Legislative and Judicial Branches, coordinate the activities of the Executive Branch with the charitable fund-raising programs conducted in the other Branches. The Director may, from time to time, seek the advice of Executive Branch departments and agencies and of appropriate and interested persons and organizations. The Director may authorize the conduct of demonstration CFC projects in one or more communities to test arrangements differing from those specified in this part for the conduct of fund-raising activities in Federal agencies.

(b) *Operations.* In accordance with applicable law and these regulations, the Director shall—

- (1) Establish general policy governing the Combined Federal Campaign;
- (2) Determine the annual general Campaign period and fix the times when all applications and other submissions permitted or required by the Part shall be filed;
- (3) Establish local Combined Federal Campaigns and establish or recognize local Federal Coordinating Committees;
- (4) Certify the eligibility of applicant federated groups and overseas service organizations;
- (5) Decide timely, perfected appeals taken from decisions of local Federal Coordinating Committees;
- (6) Report periodically to the President and to the men and women of the armed and civilian services on the accomplishments of the Combined Federal Campaign; and



(7) Exercise general supervision over all operations of the Combined Federal Campaign, and take all steps that may be necessary and proper to ensure the achievement of its objectives.

#### § 950.203 Heads of Federal agencies.

(a) *National Level.* In accordance with applicable law and these regulations, and in consultation with, and under the guidance of, the Director, the head of each Federal Executive department and agency shall—

(1) Ensure that voluntary fund-raising within the Federal agency is conducted in accordance with the policies and procedures prescribed in this part;

(2) Designate a top-level representative as Fund-Raising Program Coordinator to work with the Director as necessary in the administration of the fund-raising program within the Federal agency;

(3) Ensure full participation and cooperation in local fund-raising campaigns by all installations of the Federal agency;

(4) Ensure that the policy of voluntary giving and clear employee choice is upheld during the fund-raising campaign; and

(5) Provide a mechanism to hear and adjust employee complaints of undue pressure and coercion in Federal fund-raising. Federal agencies shall establish procedures and assign responsibility for the investigation of such complaints. Personnel offices shall be responsible for informing employees of the proper organization channels for pursuing such complaints.

(b) *Local Level.* In accordance with applicable law and these regulations, and under the guidance of the Director, heads of local Federal offices and installations shall—

(1) Cooperate with the Director and with representatives of the local Federal Coordinating Committee, the Principal Combined Fund Organization, and local Federal officials in organizing local Federal campaigns;

(2) Undertake official campaigns within their offices or installations and provide active and vigorous support for the CFC;

(3) Ensure that personal solicitations on the job are organized and conducted in accordance with these regulations; and

(4) Ensure that authorized campaigns are kept within reasonable administrative limits of official time and expense.

#### § 950.205 Local Federal Coordinating Committees.

(a) *Establishment.* The Director shall, from time to time, designate local

Federal communities for purposes of the Combined Federal Campaign, and shall establish for each such local community a local Federal Coordinating Committee. The Director may designate a Federal Executive Board, a Federal Executive Association, a Federal Business Association, or a similar body as a local Federal Coordinating Committee. There shall be only one local Federal Coordinating Committee for each local Combined Federal Campaign; subject to the approval of the Director, two or more local Federal Coordinating Committees may enter into agreements respecting the coordination of their respective campaigns and the sharing of administrative resources. No person shall serve on a local Federal Coordinating Committee who is not an officer or employee of the United States, nor shall any person holding any position of leadership, trust, or profit in the Principal Combined Fund Organization serve on a local Federal Coordinating Committee.

(b) *Representation of Management and Employee Organizations.* Because the Combined Federal Campaign represents the philanthropic undertaking of the Federal community as a whole, it is appropriate for the local Federal Coordinating Committee to include among its members the heads and commanders of major Federal offices and installations within the local CFC community and the leaders of major Federal unions and other employee organizations, or their respective delegates. In cases where a body designated by the Director to serve as the local Federal Coordinating Committee does not include such representation, it is appropriate for that body to invite such leaders to serve with it as the local Federal Coordinating Committee.

(c) *Powers and Duties.* In accordance with applicable law and these regulations, and under the guidance of the Director, local Federal Coordinating Committees shall—

(1) Be known for purposes of the CFC as the "Federal Coordinating Committee for the Combined Federal Campaign of \_\_\_\_\_," where the name of the local community is set out in lieu of the blank space;

(2) Elect such officers, form such committees, and keep such books and records as shall be necessary and proper;

(3) Designate and supervise the Principal Combined Fund Organization, and determine or approve the amount, or the formula for determining the amount, of the defrayal of its administrative expenses provided that

said amount shall not be determined as a percentage of contributions;

(4) Fix the specific period, within the general period fixed by the Director, for the conduct of the local CFC;

(5) Accept the certifications of the Director of the eligibility of federated groups and overseas service organizations;

(6) Grant the applications for admission of eligible voluntary charitable agencies;

(7) Publish a Contributor's Information Leaflet containing a list of all eligible voluntary charitable agencies;

(8) Publish a Contribution Card;

(9) Organize networks of solicitors;

(10) Disseminate information about the Campaign;

(11) Arrange for the proper receipt, distribution, and accounting of gifts and pledges;

(12) Police the local Campaign to ensure its freedom from coercive, unfair, or misleading conduct and its compliance with these regulations;

(13) Report the results promptly and accurately to the Director and to the men and women of the armed and civilian services in the local Federal community;

(14) Adhere to the decisions and instructions of the Director; and

(15) Exercise general supervision over all operations of the local Combined Federal Campaign, and take all steps that may be necessary and proper to ensure the achievement of the objectives thereof.

(d) *Loaned Executive Program.* One or more Federal employees may be used as Loaned Executives in a local Combined Federal Campaign, as authorized by President Nixon in his memorandum of March 3, 1971, to heads of departments and agencies. A Loaned Executive may be assigned by his agency on a full- or part-time basis, for a specific period of time, to conduct or assist in the operation of a local Combined Federal Campaign. The employing agency will decide who will serve as a Loaned Executive, if anyone, and the length of such assignment. Executives shall not be loaned or assigned to any specific voluntary organization, but shall be assigned only to the local Federal Coordinating Committee (LFCC). When assigned to the LFCC, the employee may be placed on administrative leave.

#### § 950.207 Principal Combined Fund Organization.

(a) *Designation of PCFO.* (1) The local Federal Coordinating Committee each year shall designate as the Principal Combined Fund Organization whichever applicant organization that it finds to be,



at the time of application, the federated group present in the local CFC community that—

(i) Provides through one specific, annual public solicitation of funds in that community the greatest support for voluntary charitable agencies that depend upon public subscriptions for support; and

(ii) In the judgment of the local Federal Coordinating Committee, will provide most effectively and least expensively such campaign services and administrative support as may be necessary for the achievement of the objectives of the Combined Federal Campaign.

(2) In making its findings, the local Federal Coordinating Committee shall consider the following factors—

(i) The information required to be furnished in the application for designation as Principal Combined Fund Organization; and

(ii) Such other information as the local Federal Coordinating Committee shall deem appropriate.

(3) No local Federal Coordinating Committee shall serve as a Principal Combined Fund Organization.

(4) The Principal Combined Fund Organization shall be known as the "Principal Combined Fund Organization for the Combined Federal Campaign of \_\_\_\_\_," where the name of the local community is set out in lieu of the blank space.

(b) *Contents of PCFO Application.* Applications for designation as Principal Combined Fund Organization shall include the following:

(1) The names of the voluntary agencies in the community that rely on the applicant organization for financial support and that meet the eligibility criteria set forth in this Part;

(2) The boundaries of the area covered by the public donation solicitation of the applicant organization;

(3) The number of dollars raised in the local CFC community by the applicant during its last completed annual public solicitation for funds;

(4) The percentage of such dollars disbursed to the voluntary agencies;

(5) A statement of its agreement to transmit contributions, as designated by Federal employees, to all voluntary agencies admitted to the local Campaign, less only the sums approved for the defrayal of administrative costs;

(6) A certification that it and its participating member organizations are in compliance with all applicable requirements specified in this part;

(7) A statement or description of the amount, or formula for determining the amount, if any, proposed to be charged

by the applicant organization for defrayal of its administrative costs provided that such amount shall not be determined as a percentage of contributions; and

(8) A statement that the applicant is organized, able, and willing to provide all necessary services and support to the local Federal Coordinating Committee for the successful conduct of the local Combined Federal Campaign in conformance with the requirements of this part and the policies and procedures prescribed hereunder.

(c) *Functions.* In accordance with applicable law and with these regulations, and under the guidance and control of the Director and the local Federal Coordinating Committee, the Principal Combined Fund Organization shall—

(1) Print and distribute the local Campaign literature and contribution card;

(2) Receive and account for contributions from donors;

(3) Transmit donations to beneficiaries;

(4) Defray proper administrative expenses from Campaign proceeds (including deemed designated funds), in accordance with agreements with, and the instructions of, the local Federal Coordinating Committee;

(5) Report completely and promptly to the local Federal Coordinating Committee on all activities;

(6) Manage the Campaign fairly and equitably, consider advice from other voluntary charitable agencies, respond to reasonable requests for information from other voluntary agencies and the general public, and consult periodically, without favoritism, with other voluntary charitable agencies;

(7) Keep its own organizational funds, accounts, and activities strictly separate from its funds, accounts, and activities as Principal Combined Fund Organization;

(8) Receive all gifts not otherwise designated for other recipients and distribute such gifts in accordance with its internal policies and community, national, and international needs;

(9) Deposit all contributions made through the CFC, except in rare cases in which it may be impracticable to do so, into interest bearing accounts; and

(10) Perform such other tasks as the Director and the local Federal Coordinating Committee may, from time to time, direct.

(d) *Audits.* The records and accounts of the local CFC that are maintained by the Principal Combined Fund Organization shall be audited annually for the benefit of the local Federal Coordinating Committee. The costs of

such audit shall be deemed a proper Campaign expense and defrayed by Campaign proceeds. The audit may be performed by an accountant retained generally by the Principal Combined Fund Organization provided that such accountant be a certified public accountant; otherwise the audit shall be performed by an independent auditor selected by the local Federal Coordinating Committee.

(e) *Revocation of designation.* In the event that the Principal Combined Fund Organization fails to discharge its functions lawfully or properly, or fails to manage the Campaign fairly and equitably, then the local Federal Coordinating Committee or the Director may revoke its designation as the Principal Combined Fund Organization.

#### § 950.209 Special provisions for overseas and military campaigns.

(a) *Overseas Campaign.* A Combined Federal Campaign shall be authorized for all activities and installations of the Department of Defense in the overseas area.

(1) The local Federal Coordinating Committee for the DOD Overseas CFC shall designate the Principal Combined Fund Organization for the DOD Overseas CFC, which may be the National Voluntary Organizations Campaign Committee or any voluntary agency that the local Federal Coordinating Committee for the DOD Overseas CFC deems, in its discretion, most likely to meet the standards set forth herein for the designation of a Principal Combined Fund Organization.

(2) The American Red Cross, the International Service Agencies—Overseas, the National Voluntary Health Agencies, the United Service Organization, and such other national federated groups and overseas service organizations that shall meet the standards under this part shall be authorized privileges on behalf of their member voluntary agencies that also meet the requirements of this part.

(3) For good cause, and upon application by the Secretary of Defense or the local Federal Coordinating Committee for the DOD Overseas CFC, the Director may waive the applicability to the DOD Overseas CFC of a regulation prescribed in this part.

(b) *Overseas Campaigns Among Civilian Personnel.* Federal agencies, other than the Department of Defense, may deem their overseas personnel to be located in the National Capital Area for purposes of the Combined Federal Campaign.

(c) *On-Base or On-Post Health and Welfare Activities.* On-base or on-post



morale, health, welfare, and recreational activities confined to a military installation may be supported through the CFC.

#### § 950.211 National coordination and reporting.

(a) The Office of the Assistant to the Director for Regional Operations (*hereinafter*, "Office of Regional Operations"), of the United States Office of Personnel Management, shall be responsible, under the Director, for CFC arrangements.

(b) Each local Federal Coordinating Committee is required to notify the Office of Regional Operations of its campaign area, its chairman's name and address, and the name and address of the organization centrally receiving and accounting for contributions.

(c) All chairmen of local Federal Coordinating Committees shall furnish, in the form prescribed by the Director, reports of campaign results to the Office of Regional Operations by January 15 of each year.

(d) All local activities shall be coordinated with the national campaign under policies and procedures issued by the Director through the Federal Personnel Manual system, a handbook of instructions, and other appropriate instruments.

#### § 950.213 Appeals from decisions of Local Federal Coordinating Committees.

(a) Any decision of a local Federal Coordinating Committee that is appealed to the Director by any charitable agency or charitable federated group, or by any applicant for solicitation privileges in a local campaign, shall be given due weight by the Director.

(1) Any such appeal shall be looked upon with disfavor unless it raises a substantial question of fairness, construction of these regulations, or application of the policies, procedures, directives, and guidance of the Director.

(2) Unless the Director orders otherwise, all burdens of proof, of persuasion, and of going forward shall be borne by the appellant.

(3) An appeal may be dismissed as untimely unless it is received by OPM within 10 days after the date on which the appellant has received actual or constructive notice of the decision from which the appeal is taken.

(4) Every appeal shall be submitted in writing and shall set forth:

- (i) A concise statement of the decision from which the appeal is taken;
  - (ii) The grounds for the appeal; and
  - (iii) The relief sought by the appellant.
- (5) Every appeal shall be accompanied by written certification that copies

thereof have been served upon the local Federal Coordinating Committee and any other proper party in interest whose participation in the appeal may be appropriate for the just disposition thereof.

(b) The local Federal Coordinating Committee and any other proper party in interest may respond to the appeal.

(1) Every response, to be timely, shall be received by OPM within 5 days after the date on which the respondent has received actual or constructive notice of the appeal.

(2) Every response shall be submitted in writing and shall set forth a concise statement of the facts and arguments that the respondent believes are material.

(3) Every response shall be accompanied by written certification that copies thereof have been served upon the appellant and any other proper party in interest.

(c) A decision of a local Federal Coordinating Committee appealed to the Director shall be considered affirmed if the Director does not reverse or modify that decision within 10 days of OPM's receipt of the appeal or of the timely response of the local Federal Coordinating Committee, whichever occurs later.

(d) The Director may, for good cause, extend or shorten the time limits set forth in this section and waive requirements for written submissions and proofs of service.

(e) The Director may, in his sole discretion, review any decision of a local Federal Coordinating Committee and stay any decision of a local Federal Coordinating Committee pending his review thereof. All decisions of the Director shall be final, and shall be executed forthwith by the local Federal Coordinating Committee, or by such other person or entity as the Director may direct to do so.

(f) In computing any period of time prescribed or allowed under this Part, the last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

#### Subpart C—Conduct of the Campaign

##### § 950.301 Campaign periods.

The general period during which local Combined Federal Campaigns shall be conducted shall commence on September 1 of each year and shall end on November 30 thereof, unless the Director shall, in a particular year, fix other dates for the general period and publish notice thereof in the *Federal*

*Register*. Each local CFC shall be conducted for a specific period of 6 weeks, fixed by the local Federal Coordinating Committee, during the general period. No local CFC shall commence before the beginning date of the general period, nor shall any local CFC conclude after the ending date of the general period. The Director may, for good cause, extend the general period during which any or all local CFCs shall be conducted; notice thereof shall be published in the *Federal Register* as soon as is practicable after the Director has determined to extend such general period. A local Federal Coordinating Committee may, for good cause, extend beyond time of 6 weeks the specific period within the general period during which the local Campaign is conducted.

##### § 950.303 Admission of eligible voluntary agencies.

(a) *General Provisions*. All eligible voluntary charitable agencies that apply for admission to the Combined Federal Campaign shall be admitted. Admission shall entail the privileges, in accordance with these regulations, of being listed and described in CFC literature and of receiving all gifts, less amounts necessary to the defrayal of administrative expenses, designated by donors for the recipient.

(b) *Substantive Eligibility Requirements*. (1) To be eligible for admission to the Combined Federal Campaign in any community, an organization shall, in addition to satisfying all other applicable eligibility criteria—

(i) Be organized and operated for the purpose of rendering, or of materially or financially supporting the rendering of, one or more of the following services directly to, and for the direct benefit of, human beings:

(A) Delivery of health care to ill or infirm individuals;

(B) Education and training of personnel for the delivery of health care to ill or infirm individuals;

(C) Health research for the benefit of ill or infirm individuals;

(D) Delivery of education, training, and care to physically and mentally handicapped individuals;

(E) Treatment, care, rehabilitation, and counseling of juvenile delinquents, criminals, released convicts, persons who abuse drugs or alcohol, persons who are victims of intra-family violence or abuse, persons who are otherwise in need of social adjustment and rehabilitation, and the families of such persons;



(F) Relief of victims of crime, war, casualty, famine, natural disasters, and other catastrophes and emergencies;

(G) Neighborhood and community-wide services that directly assist needy, poor, and indigent individuals, including provision of emergency relief and shelter, recreation, transportation, the preparation and delivery of meals, educational opportunities, and job training;

(H) Legal aid services that are provided to needy, poor, and indigent individuals solely because of their inability to afford legal counsel and without a policy or practice of discrimination for or against the kind of cause, claim, or defense of the individual;

(I) Protection of families that, on account of need, poverty, indigence, or emergency, are in long-term or short-term need of family, child-care, and maternity services, child and marriage counseling, foster care, and guidance or assistance in the management and maintenance of the home and household;

(J) Relief of needy, poor, and indigent infants and children, and of orphans, including the provision of adoption services;

(K) Relief of needy, poor, and indigent adults and of the elderly;

(L) Assistance, consistent with the missions of, and expressly approved by, the Federal agencies involved, to members of the armed services, Civil Service, Foreign Service, intelligence services, Public Health Service, and other services of the United States, and their families;

(M) Assistance, consistent with the mission of the Federal agency or facility involved, to members of its staff or service who, by reason of geographic isolation, emergency conditions, injury in the line of duty, or other extraordinary circumstances, have exceptional health or welfare needs; or

(N) Lessening of the burdens of government with respect to the provision of any of the foregoing services;

(i) Meet all eligibility requirements established in this Part; and be able to show that it met all such requirements for the full fiscal year of the organization for the period immediately preceding the closing date established by the Director for the submission of its application for admission to the Combined Federal Campaign for a particular year;

(iii) Be organized under laws of the United States or of a State; be subject to the jurisdiction and laws of the United States; be an organization described in, and qualifying under, 26 U.S.C. 501(c)(3);

not be an "action organization" within the meaning of 26 CFR 1.501(c)(3)-1(c)(3); and be an organization to which contributions may be tax deductible to the donor under 26 U.S.C. 170;

(iv) Not participate in, or intervene directly or indirectly in, any political campaign on behalf of or in opposition to any candidate for public office, or on behalf of any side or position in a public referendum, initiative, or similar procedure; and

(v) Except as provided in 5 CFR 950.303(b)(4), have articles of organization that do not expressly empower the organization to, and the organization does not, expend more than the proportions set forth in 5 CFR 950.303(b)(2) of its total expenditures on any or all of the following activities:

(A) Activities that are not in furtherance of the purposes set forth in 5 CFR 950.303(b)(1)(i);

(B) Activities (other than activities directly related to the organization's participation in the Combined Federal Campaign) for purposes of influencing legislation or rulemaking at any level of Federal, State, or local government; and

(C) Activities for purposes of litigation (including contributing to the expenses thereof), other than litigation undertaken as a necessary part of the provision of legal aid services as set forth in 5 CFR 950.303(b)(1)(i)(H); provided that the activities described in this subsection (5 CFR 950.303(b)(1)(v)(C)) shall not include activities to protect the existence of the organization, its tax exempt status, its participation in the Combined Federal Campaign, or its own direct and private interests, as opposed to the interests of the causes or policy goals that it supports.

(2) The maximum level of expenditures permitted on any and all activities identified in 5 CFR 950.303(b)(1)(v) without disqualifying an organization from participation in the Combined Federal Campaign shall be 15 percent of the organization's total annual expenditures; provided that the level of expenditures thus made in the aggregate, on any and all activities identified in 5 CFR 950.303(b)(1)(v) may not, in any one year, exceed the sum of \$1,000,000; and provided further that no more than one-fourth of the maximum level of expenditures thus made may be expended in any one year as grass roots expenditures.

(3) For purposes of the preceding paragraph (5 CFR 950.303(b)(2)), the following definitions shall apply:

(i) The term "influencing legislation" shall have the same meaning that it has in 26 U.S.C. 4911(d);

(ii) The term "influencing rulemaking" shall have the same meaning that the

term "influencing legislation" in 26 U.S.C. 4911(d) would have if the term "rulemaking" were substituted therein for the term "legislation", and the term "government agency" were substituted for the term "legislative body";

(iii) The term "rulemaking" shall have the same meaning that the term "rule making" has in 5 U.S.C. 551(5);

(iv) The term "expenditures" shall mean all money expended or debts incurred by the organization;

(v) The term "total annual expenditures" shall mean all expenditures made by the organization in its fiscal year; and

(vi) The term "grass roots expenditures" shall mean all expenditures made by the organization for the purposes described in 26 U.S.C. 4911(d)(1)(A) and for the purposes that would be described in 26 U.S.C. 4911(d)(1)(A) if the term "rulemaking" were substituted therein for the term "legislation."

(4) An organization that has been notified by the Director or the local Federal Coordinating Committee, as the case may be, that it does not satisfy the requirements of 5 CFR 950.303(b)(1)(v) may nonetheless petition the Director or the local Federal Coordinating Committee, whichever was the decision-maker in the first instance, for inclusion in the Combined Federal Campaign. The Director shall, from time to time, announce through the Federal Personnel Manual system or other appropriate instruments the time, place, and manner in which such a petition may be filed with him; the local Federal Coordinating Committee shall similarly make known such arrangements to applicants and participants in the local Campaign. The petition shall set forth specific facts and circumstances in support thereof. The Director or the local Federal Coordinating Committee, as the case may be, shall grant the petition if the decision-maker determines that the organization's activities described in paragraphs (A), (B), and (C) of 5 CFR 950.303(b)(1)(v) (A), (B), and (C), taken as a whole:

(i) Do not significantly exceed the limits described in 5 CFR 950.303(b)(2), taking into account other indices of activity not adequately accounted for by the measurement of expenditures (such as the use of volunteer services or in-kind contributions); and

(ii) Are in direct furtherance of the organization's activities described in 5 CFR 950.303(b)(1)(i).

Any such favorable determination by the Director or the local Federal Coordinating Committee shall be in writing, shall succinctly state the basis



for the determination, and shall be available to the public.

(c) *Operational eligibility requirements.* To be eligible for admission to the Combined Federal Campaign, an organization shall, in addition to satisfying all other applicable eligibility criteria—

(1) Demonstrate that it is a non-profit, tax-exempt charitable organization, supported by voluntary contributions from the general public, and providing direct and substantial health and welfare services all of which shall be consistent with the laws and policies of the United States Government;

(2) Demonstrate that, except in the case of a voluntary agency whose revenues are affected by unusual or emergency circumstances, it has received at least 50 percent of its revenues from sources other than the Federal Government, or at least 20 percent of its revenues from direct and/or indirect voluntary public contributions, in the year immediately preceding any year in which it applies for admission to the Combined Federal Campaign;

(3) Show that it is directed by an active board of directors, a majority of whose members serve without compensation;

(4) Show that it adopts and employs generally accepted accounting principles and was, in the year immediately preceding any year in which it applies for admission to the Combined Federal Campaign, audited by a certified public accountant;

(5) Demonstrate, if its fund-raising and administrative expenses in the year immediately preceding any year in which it applies for admission to the Combined Federal Campaign exceeded 25 percent of its total public support and revenue, that its expenses for such purposes were reasonable in light of all the circumstances;

(6) Affirm that its publicity and promotional activities are based upon its actual program and operations, are truthful, and include all material facts;

(7) Affirm that its operations guard against the unauthorized use of contributor lists, permit no payments of commissions, kickbacks, finders fees, percentages, bonuses, overrides, or bribes for fund-raising, and allow no general telephone solicitation of the public;

(8) Show that it publishes an annual report to the general public that includes a full description of its activities and finances and that identifies its directors and its principal administrative personnel; and

(9) Demonstrate, in the case of a voluntary agency that represents or

comprises more than one subunit, that its annual reporting includes all operational and financial reporting for all of its components, including, in the case of national federations and overseas service organizations, any and all international, national, and subnational units and affiliates, and that the same, in its entirety, was prepared in accordance with generally accepted accounting principles.

(d) *Local Eligibility Requirements.* To be eligible for admission to the Combined Federal Campaign in a particular community, an organization shall, in addition to satisfying any other applicable eligibility criteria, have a direct and substantial presence in the local Campaign community, meaning that Federal employees and their families are able to receive, within a reasonable distance from their duty stations or homes, services that are directly provided by the voluntary agency or that demonstrably depend upon, or derive from, the specific research, educational, support, or similar activities of the particular voluntary agency. Demonstration of direct and substantial presence in the local campaign community, including adequate documentation thereof, shall at all times, and for all purposes, be the burden of the voluntary agency. Such direct and substantial presence shall be determined in the light of the totality of the circumstances in each case, including, but not necessarily limited to, consideration of the following factors:

(1) The availability of services, such as examinations, treatments, inoculations, preventative care, counseling, training, scholarship assistance, transportation, feeding, institutionalization, shelter, and clothing, to persons working or residing in the local campaign community;

(2) The presence within the local community, or within reasonable commuting distance thereof, of a facility at which services are rendered or through which they may be obtained, such as an office, clinic, mobile unit, field agency, or direct provider; or specific demonstrable effects of research, such as personnel or facilities engaged therein or specific local applications thereof;

(3) The availability to persons working or residing in the local campaign community of communication with the voluntary charitable agency by means of home visits, transportation, or telephone calls, provided by the voluntary agency at no charge to the recipient or beneficiary of the service; and

(4) Awareness within the local Federal community of the existence,

activities, and services of the voluntary charitable agency;

*Provided that* overseas service organizations that meet all the criteria set forth in this Part except for the requirement of direct and substantial presence in the local campaign community shall be eligible for admission to each local Campaign of the Combined Federal Campaign.

(e) *Admission standards.* (1) *National Federated Groups.* To be admitted to the Combined Federal Campaign in a local community, a national federated group shall first be certified by the Director. Such certification as a national federated group shall be conclusive for purposes of every local Combined Federal Campaign and shall entitle the national federated group to be admitted, in its own corporate name, to every local Campaign upon a showing that, with respect to that local Campaign, it meets the local eligibility criteria set forth at 5 CFR 950.303(d); and further, it shall entitle the national federated group, in turn, to certify to any local Federal Coordinating Committee that a member of the national federated group meets the substantive eligibility criteria set forth at 5 CFR 950.303(b) and the operational eligibility criteria set forth at 5 CFR 950.303(c). Certification of a national federated group may be obtained by submitting an application in the form, and within the time, prescribed from time to time by the Director, demonstrating that the applicant meets all substantive eligibility criteria set forth at 5 CFR 950.303(b) and all operational eligibility criteria set forth at 5 CFR 950.303(c), and showing that it represents or federates at least 10 individual voluntary charitable agencies that, collectively, solicit and receive funds in at least 300 local combined philanthropic campaigns in the United States.

(2) *Overseas Service Organizations.* To be admitted to the Combined Federal Campaign in a local community, an overseas service organization shall first be certified by the Director. Such certification as an overseas service organization shall be conclusive for purposes of every local Combined Federal Campaign and shall entitle the overseas service organization to be admitted, in its own corporate name, to every local Campaign. Such certification may be obtained by submitting an application in the form, and within the time, prescribed from time to time by the Director, demonstrating that the applicant is an overseas service organization as defined at 5 CFR 950.101(k) and meets all substantive eligibility criteria set forth at 5 CFR



950.303(b) and all operational eligibility criteria set forth at 5 CFR 950.303(c). No showing of satisfaction of the local eligibility criteria set forth at 5 CFR 950.303(d) shall be required of an overseas service organization.

(3) *Other Organizations.* To be admitted to the Combined Federal Campaign in a local community, a voluntary agency other than a national federated group or an overseas service organization shall apply in the form, and within the time, prescribed from time to time by the Director, to the local Federal Coordinating Committee for the CFC of the local community, demonstrating that the applicant meets all substantive eligibility criteria set forth at 5 CFR 950.303(b), all operational eligibility criteria set forth at 5 CFR 950.303(c), and, with particular respect to that local community, all local eligibility criteria set forth at 5 CFR 950.303(d). If the applicant is a member of a federated group, then the federated group may certify as to the applicant's satisfaction of the substantive eligibility criteria set forth at 5 CFR 950.303(b) and the operational eligibility criteria set forth at 5 CFR 950.303(c); but the applicant shall, in all cases, particularly demonstrate to the local Federal Coordinating Committee that it satisfies the local eligibility criteria set forth at 5 CFR 950.303(d).

#### § 950.305 Application procedures.

(a) *Application Form.* Applications shall include the following information and documents:

(1) The corporate name and fiscal year;

(2) Statement of origin, purpose, and structure of organization, including information to show clearly that the voluntary agency meets each of the applicable eligibility requirements of this Part;

(3) A list of chapters, affiliates, or representatives in alphabetical order by State; and under the State, a list of cities with chapter, affiliate, or representative by names and addresses;

(4) For national federated groups, acceptability of the organization throughout the United States;

(5) An outline of the applicant's program or programs, particularly the nature of the direct services provided by the applicant voluntary agency and under what provisions of 5 CFR 950.303(b)(1)(i) the applicant claims to provide human health and welfare services;

(6) A description of the activity of the board of directors over the preceding year, accompanied by a list of the names, addresses, and businesses or

occupations of the current members of the board of directors;

(7) A signed statement by a certified public accountant testifying that the accountant has reviewed the applicant's financial system according to generally accepted accounting principles;

(8) A copy of its latest annual report;

(9) A copy of its latest external audit by an independent certified public accountant; and

(10) A special report, consistent with generally accepted accounting principles, including the applicant's sources of funds, expenditures by program service and supporting services, with fund-raising and other expenditures listed separately. The report shall cover the most recent fiscal year and present a consolidated statement of national and affiliate income and expenditures. The amount of contributions received from private sector federated groups and federated campaigns, from the Combined Federal Campaign, and the total from all other sources, including transfers, dues, or other funds from affiliated organizations, shall be separately identified and shown. All entries shall be reported both in dollars and in percentage of total contribution. The report shall be furnished in accordance with the format shown in the appendix to this section.

(b) *Place of obtaining information and forms and place of filing with the Director.* Information about general eligibility requirements; copies of application forms; lists of addresses of local Federal Coordinating Committees; and other facts about the Combined Federal Campaign may be obtained from; and all documents required by these regulations to be filed with or served upon the Director shall be mailed or delivered to—

National CFR Headquarters, Office of the Assistant to the Director for Regional Operations, United States Office of Personnel Management, Room 5532, 1900 E Street, NW., Washington, DC 20415

All documents required by these regulations to be filed with or served upon the local Federal Coordinating Committee shall be delivered to the appropriate local Federal Coordinating Committee, and service upon the Director shall not substitute therefor.

(c) *Applications and Submissions as Public Records.* All applications and related documents submitted to the Director or the local Federal Coordinating Committees in connection with the Combined Federal Campaign shall be available, at reasonable times and places, and in accordance with other rules generally applicable to

public records, for public inspection and copying.

(d) *Proceedings Before the Director.* Proceedings before the Director shall be conducted on the basis of the written record furnished by the applicant and by other interested parties, if any. The applicant shall be given a reasonable opportunity to reply in writing to any submissions in opposition to its application. In his discretion, the Director may give public notice and request public comment upon an application or convene a public hearing thereon.

(e) *Proceedings before local Federal Coordinating Committees.* All proceedings of local Federal Coordinating Committees on consideration of applications for admission to the local Campaign shall be public, with reasonable notice given thereof, and, subject to such fair and uniform rules of procedure as the local Federal Coordinating Committee may adopt, proponents and opponents of every application shall be given an opportunity to be heard thereon.

(f) *Investigations Authorized.* The Director shall be authorized to investigate facts and circumstances relating to questions of eligibility under this Part.

(g) *Forms Prescribed.* The Director may prescribe and publish, through the Federal Personnel Manual system and such other instruments as may be appropriate, such forms and documents as may be necessary and proper.

#### Appendix A to 5 CFR 950.305—Source of Funds and Cost Report (for the year ending —)

Organization: \_\_\_\_\_  
Public support (dollars):  
Received Directly: —  
Contributions —  
Special Events (net of direct benefit costs of \$ —) —  
Legacies and bequests —  
Subtotal —  
Received Indirectly:  
Federated campaigns (e.g., United Way) —  
Federal service campaigns —  
Other Contributions —  
Subtotal —  
Total Support from the Public —  
Revenue:  
Grants from Federal government agencies (including grants in-kind) —  
Grants from state or local government agencies (including Medicaid) —  
Memberships —  
Program service fees (including Medicare) —  
Sales of materials and services to member units (net of direct expenses) —  
Sales of materials and services to



the public (net of direct expenses) \_\_\_\_\_  
 Transfers, dues, etc. from affiliated organizations, etc. \_\_\_\_\_  
 Investment Income \_\_\_\_\_  
 Gains on investment transactions \_\_\_\_\_  
 Other Income \_\_\_\_\_  
 Total revenue \_\_\_\_\_  
 Total public support and revenue \_\_\_\_\_

**Expenses:**

Program services:  
 (program) \_\_\_\_\_  
 (program) \_\_\_\_\_  
 (program) \_\_\_\_\_  
 (program) \_\_\_\_\_  
 Subtotal \_\_\_\_\_  
 Supporting services:  
 Management and general \_\_\_\_\_  
 Fund raising \_\_\_\_\_  
 Subtotal \_\_\_\_\_  
 Excess (deficiency) of public support and revenue over expenses \_\_\_\_\_

**Appendix B to 5 CFR 950.305—Certificate**

Name of Organization \_\_\_\_\_

I certify that I have reviewed the financial statements of the above-named organization in accordance with generally accepted accounting principles.

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

**§ 950.307 Special rules applicable to the American Red Cross.**

In recognition of the unique status conferred by Act of Congress upon the American Red Cross, the American Red Cross shall be, and hereby is, certified as a national federated group. In local communities where the American Red Cross is not a participating member of another federated group, it shall be deemed a separate federated group in the local Campaign. As with all other organizations, in the event that a local American Red Cross chapter chooses not to participate in the CFC, it shall not be authorized to have a separate campaign in local Federal offices or installations during the fiscal year involved, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Director.

**§ 950.309 Prohibition of misleading identification.**

Solicitation on behalf of a cause, such as "mental health" or "heart disease," shall be prohibited. All solicitation shall be undertaken on behalf of specifically identified organizations. No two organizations with the same name or with deceptively similar names shall be admitted to the same local Campaign; if the parties involved cannot reach agreement on the names that they shall use, respectively, then the local Federal Coordinating Committee may, in its discretion, decide the matter. No organization shall be admitted to the

Campaign with a name that is deceptive as to the true nature and activities thereof.

**Subpart D—Solicitation and Campaign Materials****§ 950.401 Contributor's Information Leaflet.**

The local Federal Coordinating Committee in each local Campaign shall publish a Contributor's Information Leaflet that shall be fair in its presentation respecting all admitted voluntary agencies; shall be designed to contain or be disseminated as a single package with the Contributor Card; shall be as clear and as readable as possible; and shall set forth the following information:

(a) A notice as required by the Privacy Act;

(b) A statement that all gifts made through the Combined Federal Campaign must be specifically designated to a particular recipient; that all gifts not otherwise specifically designated to a particular recipient shall be deemed designated to the Principal Combined Fund Organization for the local Campaign, which shall expressly identified; and that any gift designated to an organization not admitted to the local Campaign shall be returned to the donor;

(c) A statement that the Principal Combined Fund Organization shall remit all designated gifts to their particular recipients, with an approved amount deducted to defray administrative costs and shrinkage, if applicable;

(d) A statement that the Contributor's Information Leaflet is accompanied by a Contribution Card (or "pledge" card), and that gifts can be made through the Combined Federal Campaign only by using an official Contribution Card;

(e) A statement that the donor has the right to make his gift confidentially in a sealed envelope that will be delivered unopened to the headquarters of the Principal Combined Fund Organization and will not be seen by a Federal official (other than officials in an agency's payroll office, in the case of a payroll deduction);

(f) A statement that a Federal employee may make a gift of a single payment of cash, a gift of periodic payments through the payroll deduction system, or no gift at all; and

(g) A list of the names of all voluntary agencies, including federated groups, admitted to the local Campaign, arrayed as set forth in 5 CFR 950.403, and each accompanied by a description, written by each voluntary agency and approved by the local Federal Coordinating Committee and not exceeding 30 words

in length, of the nature and activities of the voluntary agency and of the uses to which it puts the funds obtained through the Combined Federal Campaign.

**§ 950.403 Listing of voluntary agencies.**

(a) *Order of Listing.* The Contributor's Information Leaflet shall list, in an order to be determined each year by lot by the local Federal Coordinating Committee, the following approved categories of charitable services: acquisition of knowledge and skills; basic needs and economic opportunity; children and family services; community coordination and referral services; health services/ services to handicapped persons; international services; local Federal personnel services; neighborhood services; youth and delinquency prevention services; and specialized and miscellaneous services. Under these rubrics shall be listed, in accordance with their programs and in orders determined each year by lot by the local Federal Coordinating Committee, the names of the voluntary agencies admitted to the local Campaign, accompanied by descriptions, as provided in 5 CFR 950.401, and by unique numbers, all of the same number of digits. The name of each voluntary agency may be followed, at its election, by the initials, set off in parentheses, of the federated group admitted to the local Campaign, if any, with which it is affiliated. These lists shall be followed by a list, under the heading of "Campaign Organizations," of all federated groups admitted to the local Campaign, set out in an order determined each year by lot by the local Federal Coordinating Committee. The names of the federated groups shall also be accompanied by descriptions and numbers, and the numbers assigned to federated groups shall be keyed in some recognizable way, such as by the first digit of a three-digit number, to the numbers assigned to all the individual voluntary agencies admitted to the local Campaign that are affiliated with the federated group.

(b) *Proscription Against Dual Listing.* No voluntary agency shall be listed more than once on the Contributor's Information Leaflet. Listing of both a voluntary agency and its local affiliate or other subunit is prohibited even if the local affiliate or other subunit applies separately for admission into a local Campaign. The parent voluntary agency shall determine whether the parent or its local affiliate or other subunit shall be listed.



**§ 950.405 Other campaign publicity materials.**

In accordance with the provisions of this Part, and under the guidance issued from time to time by the Director, local Federal Coordinating Committees may prepare, for use in their respective local Campaigns, other Campaign publicity materials. No such materials shall unfairly advantage or disadvantage any voluntary agency or category of voluntary agencies admitted to the Campaign. All such materials should be produced in consultation with the leaders of interested federated groups and voluntary agencies. No such materials may be used in connection with a local Campaign without the prior approval of the local Federal Coordinating Committee. All materials prepared for national distribution and use in connection with the Combined Federal Campaign shall be subject to review and approval by the Director, and no such material shall be used without the prior approval of the Director.

**§ 950.407 Coincident non-campaign activities.**

During the time when the local Campaign is underway, voluntary agencies should not make unusual or unfair displays of activity in the Federal workplace. Customary, bona fide, health and welfare services rendered by voluntary agencies in the Federal workplace may certainly continue, but they should not be enhanced or emphasized for purposes of gaining an advantage in the Campaign. All such activities should be coordinated with occupational health officials or similar such officials, and should not, in any way, be conducted by or with keyworkers, solicitors, or similar functionaries of the Combined Federal Campaign.

**Subpart E—Contributions, Distributions, and Accounting****§ 950.501 Designation of contributions.**

All contributions made through the Combined Federal Campaign shall be specifically designated to a particular recipient. Any gift not otherwise specifically designated to a particular recipient shall be deemed designated to the Principal Combined Fund Organization for the local Campaign. Any contribution designated to an organization not admitted to the local Campaign shall be returned to the donor.

**§ 950.503 Privacy of contributions.**

A donor shall not be required to disclose to coworkers the amount or the

recipients of his contributions. If a donor so desires, his contribution, including his Contribution Card, shall be placed in a sealed envelope and transmitted unopened to the Principal Combined Fund Organization, which shall open and process the gift without disclosing the same to any Federal officials, save payroll office employees, if such disclosure is required by the donor's election of a gift by means of payroll deduction. Nothing in this section is intended to affect the enforcement of the Federal tax, criminal, and privacy laws, or any other Federal law.

**§ 950.505 Election as to means of giving.**

Each donor shall have a choice among giving by means of a one-time payment by check or with cash, giving through the payroll deduction system, or not giving at all.

**§ 950.507 Contribution Card.**

(a) *Purpose and prescription of form.* Each local Federal Coordinating Committee shall publish a Contribution Card for the local Campaign, using such form as the Director may, from time to time, prescribe. The Contribution Card shall be the sole valid means of conveying the donor's instructions to the Central Receipt and Accounting Point, the Principal Combined Fund Organization, and the relevant payroll office. The Contribution Card shall be designed to furnish an automatic copy of the record of the transaction to the employee, and shall further be designed to foil attempts at fraudulent alteration of the donor's actions or at frustrating his intentions.

(b) *Contents.* The Contribution Card shall contain, at a minimum, three boxes on which a donor may record designated gifts, and shall state on its face, and on every copy thereof, in a typeface and a color of ink that are both distinctive, that all gifts not otherwise specifically designated to a particular recipient shall be deemed designated to the Principal Combined Fund Organization for the local Campaign. It shall set forth the name and mailing address of the organizations centrally receiving and accounting for local Campaign contributions. It shall clearly identify the year of the Campaign and the community in which it is conducted (e.g., "1985 Chicago Combined Federal Campaign"). It may contain a box for notation of the donor's social security number, employee number, or other similar identification number.

(c) *Copies.* The Contribution Card shall be designed to provide an original and two duplicate copies. In the event that the donor effects a pledge for payment through payroll deduction, the

original card shall be transmitted to the donor's payroll office. In all cases the first duplicate copy shall be transmitted to the organization centrally receiving and accounting for contributions and the second duplicate copy shall be retained by the donor and shall constitute a receipt for the donor's gift.

(d) *Improperly completed pledge cards.* In the event that a Contribution Card cannot be honored on account of illegibility, mathematical error, mutilation, or any other cause, then the Principal Combined Fund Organization shall return the Contribution Card to the donor to ascertain the donor's intention. In rare cases in which the donor cannot be contacted after a diligent effort, and upon the approval of the local Federal Coordinating Committee, the contribution shall be deemed designated to the Principal Combined Fund Organization.

**§ 950.509 Central receipt and accounting for contributions.**

(a) The Principal Combined Fund Organization shall receive and account for all contributions. It may arrange for an appropriate financial institution to provide such service on its behalf, under the direction of the local Federal Coordinating Committee. Any fees charged by such institution for its services shall be the responsibility of the Principal Combined Fund Organization and shall be included in the latter organization's administrative costs.

(b) The Principal Combined Fund Organization shall tabulate all contributions designated to specified agencies on the contribution cards and then tabulate the contributions designated to the Principal Combined Fund Organization. The amounts payable to the specified voluntary agencies are subject to deduction for—

(i) Shrinkage (i.e., contributions pledged but not received); and

(ii) The approved fee, if any, for *pro rata* reimbursement of administrative costs to the Principal Combined Fund Organization.

(c) The Principal Combined Fund Organization shall provide for an audit as specified in 5 CFR 950.207(d).

(d) In addition to the usual method of cash contribution and direct payment of pledges, the use of voluntary payroll withholding shall be authorized for members of the uniformed services and civilian personnel at CFC locations. Any other form of collection of pledges, including the collection of installment pledges by keyworkers, shall be prohibited.



**§ 950.511 Payroll withholding.**

The provisions of this section are intended to be consistent, and shall be read in conjunction, with the regulations prescribed by the Office of Personnel Management governing Pay Administration, codified at 5 CFR Part 550.

(a) *Applicability.* Federal departments and agencies shall authorize voluntary payroll allotments for payment of charitable contributions to local Combined Federal Campaigns.

(b) *Allotment.* The allotment privilege shall be made available to Federal personnel as follows:

(1) Employees whose net pay regularly is sufficient to cover the allotment shall be eligible. An employee serving under an appointment limited to 1 year or less may make an allotment to a Combined Federal Campaign when an appropriate official of the employing Federal agency determines that the employee will continue his employment for a period sufficient to justify an allotment. (This includes part-time and intermittent employees who are regularly employed.)

(2) Members of the uniformed services shall be eligible, excluding those on only short-term assignment (less than 3 months).

(c) *Authorization.* (1) Allotments shall be wholly voluntary and shall be based upon contributors' individual written authorizations.

(2) Authorization forms in standard format shall be printed by the Principal Combined Fund Organization at each location. The forms and other campaign materials shall be distributed to employees when contributions are solicited.

(3) Completed authorization forms should be transmitted to the contributors' servicing payroll offices as promptly as possible, preferably by December 15 of each year. Forms received thereafter shall nonetheless be accepted and processed by payroll offices.

(d) *Duration.* Authorizations shall be in the form of a term allotment for one full year, starting with the first pay period beginning in January and ending with the last pay period that begins in December. The fact that an employee or military member will not be on duty for the full year should not preclude acceptance of a payroll allotment if he has sufficient time in service remaining

to make administration of the allotment practicable.

(e) *Amount.* (1) Allotment shall make a single allotment, which shall be apportioned into equal amounts for deductions during each pay period in the year.

(2) The minimum amount for allotment shall be determined by the local Federal Coordinating Committee, but shall be not less than \$1 bi-weekly or \$2 monthly.

(3) No change of allotment shall be authorized during the term of an allotment.

(4) No deduction shall be made for any period in which the allotter's net pay, after all legal and previously authorized deductions, is insufficient to cover the allotment. No adjustment shall be made in subsequent periods to make up for deductions missed.

(f) *Remittance.* (1) One check shall be sent by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations, to the organization centrally receiving and accounting for contributions to the local CFC.

(2) Each check shall be accompanied by a statement identifying the agency and the number of employee deductions, but no individual allotter, including an allotter discontinuing an allotment, shall be identified.

(g) *Discontinuance.* (1) Allotments shall be discontinued automatically—

(i) On expiration of the 1-year withholding period; or

(ii) On the allotter's death, retirement, or separation from the Federal service.

(2) The allotter may revoke his authorization at any time by requesting it in writing from the payroll office. Discontinuance shall be effective the first pay period beginning after receipt of the written revocation in the payroll office.

(3) A discontinued allotment shall not be reinstated.

(h) *Transfer.* (1) When an allotter moves to another organizational unit served by a different payroll office in the same CFC location, whether in the same office or a different Federal agency, his allotment authorization shall be transferred to the new payroll office.

(2) When there is a delay in receiving the transferred authorization in the new payroll office, or when the allotter moves to a location covered by another CFC, the allotter shall be permitted to

complete a new authorization for the remainder of the 1-year withholding period, which will supersede and revoke his previous authorization.

(3) When the allotter moves to a duty station not included in a CFC, the allotment shall automatically be terminated unless expressly continued by the individual.

(i) *Accounting.* (1) Federal payroll offices shall oversee establishment of individual allotment accounts, deductions each pay period, and reconciliation of employee accounts in accordance with agency and General Accounting Office requirements. The payroll office shall be responsible for the accuracy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements.

(2) The Principal Combined Fund Organization shall be responsible for the accuracy of transmittal of contributions.

(i) It shall transmit at least monthly for campaigns of \$100,000 or more, or quarterly if less than that amount, less only the shrinkage factor and approved fee for defrayal of administrative costs.

(ii) It shall remit contributions, less approved administrative costs and shrinkage, to: each voluntary agency; or, upon the written request of a voluntary agency, to the federated group, if any, of which the voluntary agency is a member.

(iii) It shall notify the federated groups, as soon as practicable after the completion of the campaign (but in no case more than 60 days thereafter), of the amounts, if any, designated to them and their member voluntary agencies and of the amounts of deemed-designated contributions, if any, allocated to them and their member voluntary agencies.

(3) Federated and national voluntary agencies, or their designated agents, shall be responsible for—

(i) The accuracy of distribution among the voluntary agencies of remittances from the Principal Combined Fund Organization; and

(ii) Arrangements for independent audit agreed upon by the participating voluntary agencies.

U.S. Office of Personnel Management.

Constance Horner,

Director

[FR Doc. 86-7329 Filed 4-3-86; 8:45 am]

BILLING CODE 5325-01-M



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Friday  
April 4, 1986

**FRIDAY  
APRIL 4, 1986**

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**Part III**

**General Services  
Administration**

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**41 CFR Part 101-38**

**Property Management; Motor Equipment  
Management; Final Rule**



## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 101-38

#### [FPMR Amendment G-78]

#### Property Management; Motor Equipment Management

**AGENCY:** Federal Supply Service, GSA.

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is updating the policies and procedures concerning the management of Government-owned and -leased motor vehicles. Revisions to this Part were made as a result of Interagency Motor Equipment Management Committee recommendations and comments submitted by Federal agencies.

**EFFECTIVE DATE:** April 4, 1986.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry Frisbee, Federal Supply Service, Fleet Management Division (703-557-1288).

**SUPPLEMENTARY INFORMATION:** GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291, dated February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

A draft of proposed changes to 41 CFR 101-38 was distributed to the members of the Interagency Motor Equipment Management Committee representing 19 major civilian executive agencies. Comments were received and reconciled, as appropriate. Subsequently, a proposed rule was published in the *Federal Register* on April 11, 1985 (50 FR 14260), requesting further comments from interested parties. A separate copy of the proposed rule was furnished to each member of the Interagency Advisory Committee on Regulatory Review. In response to the proposed rule, several additional agency comments were received. These have also been adopted, where appropriate.

Certain sections from 41 CFR 101-25 and 41 CFR 101-26.5 pertaining to motor vehicles have been incorporated into this regulation to provide for a more

logical sequence of events concerning Federal motor vehicle fleet policies and procedures; i.e., the regulatory material begins with the planning for motor vehicle acquisition and concludes with motor vehicle disposal actions and the reports necessary for the annual Federal Motor Vehicle Fleet Report.

#### Paperwork Reduction Act:

The information collection requirements contained in this regulation (§ 101-38.601(c)) has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and has been assigned OMB control number 3090-0033.

#### List of Subjects in 41 CFR Part 101-38

Energy conservation, Gasohol, Government property management, Motor vehicles.

1. Title 41 CFR Part 101-38 is revised to read as follows:

### PART 101-38—MOTOR EQUIPMENT MANAGEMENT

Sec.

101-38.000 Scope of part.

#### Subpart 101-38.0—Definition of Terms

- 101-38.001 Definitions.
- 101-38.001-1 Head of executive agency.
- 101-38.001-2 Acquired for official purposes.
- 101-38.001-3 Commercial design motor vehicle.
- 101-38.001-4 Military design motor vehicle.
- 101-38.001-5 Identification.
- 101-38.001-6 Owning agency.
- 101-38.001-7 Using agency.
- 101-38.001-8 Vehicle lease.
- 101-38.001-9 Vehicle rental.
- 101-38.001-10 Reportable vehicles.
- 101-38.001-11 Large fleet.
- 101-38.001-12 Small fleet.
- 101-38.001-13 Domestic fleet.
- 101-38.001-14 Foreign fleet.
- 101-38.001-15 Tag.
- 101-38.001-16 Fleet average fuel economy.
- 101-38.001-17 Acquired.
- 101-38.001-18 Law enforcement vehicle.
- 101-38.001-19 Light truck

#### Subpart 101-38.1—Motor Vehicle Acquisitions.

- 101-38.100 Scope and applicability.
- 101-38.101 Acquisition of fuel efficient motor vehicles.
- 101-38.101-1 Classification of passenger automobiles.
- 101-38.101-2 Mandatory provisions affecting the acquisition and use of motor vehicles.
- 101-38.101-3 Acquisition of fuel efficient passenger automobiles and light trucks.
- 101-38.102 Agency forecasts of planned acquisitions.
- 101-38.103 Leasing of motor vehicles.
- 101-38.103-1 Schedule leasing program.
- 101-38.104 General.
- 101-38.104-1 Purchase of new motor vehicles.

Sec.

- 101-38.104-2 Additional systems and equipment for passenger motor vehicles.
- 101-38.104-3 Consolidated purchase program.
- 101-38.104-4 Submission of requisitions and delivery orders.
- 101-38.104-5 Procurement leadtimes.
- 101-38.104-6 Procurement time schedules.
- 101-38.104-7 Forms used with delivery of motor vehicles.
- 101-38.104-8 Notification of motor vehicle defects.

#### Subpart 101-38.2—Registration, Identification, and Exemptions

- 101-38.200 General requirements.
- 101-38.201 Registration and inspection.
- 101-38.201-1 In the District of Columbia.
- 101-38.201-2 Outside the District of Columbia.
- 101-38.202 Tags.
- 101-38.202-1 In the District of Columbia.
- 101-38.202-2 Outside the District of Columbia.
- 101-38.202-3 Records.
- 101-38.202-4 Numbering and coding.
- 101-38.202-5 Requests for additional code designations.
- 101-38.202-6 Display of tags.
- 101-38.202-7 Lost or stolen tags.
- 101-38.203 Agency identification.
- 101-38.203-1 Civilian agencies.
- 101-38.203-2 Department of Defense.
- 101-38.203-3 Removal of legend and agency identification.
- 101-38.204 Exemptions.
- 101-38.204-1 Unlimited exemptions.
- 101-38.204-2 Special exemptions.
- 101-38.204-3 Requests for exempted motor vehicles in the District of Columbia.
- 101-38.204-4 Report of exempted motor vehicles.

#### Subpart 101-38.3—Official Use of Government Motor Vehicles

- 101-38.300 Scope.
- 101-38.301 Authorized use.
- 101-38.301-1 Contractors' use.
- 101-38.301-2 Violations.

#### Subpart 101-38.4—Use and Replacement Standards

- 101-38.400 Applicability.
- 101-38.401 Use standards.
- 101-38.401-1 Gasoline for use in motor vehicles.
- 101-38.401-2 Use of self-service pumps.
- 101-38.402 Replacement standards.

#### Subpart 101-38.5—Scheduled Maintenance

- 101-38.500 Scope and applicability.
- 101-38.501 Agency requirements.
- 101-38.502 Guidelines.
- 101-38.503 Assistance to agencies.

#### Subpart 101-38.6—Reporting Motor Vehicle Accidents

- 101-38.600 Scope and applicability.
- 101-38.601 Accident reporting forms and their use.

#### Subpart 101-38.7—Transfer, Storage, and Disposal of Motor Vehicles

- 101-38.700 Scope and applicability.
- 101-38.701 Transfer of title to Government-owned motor vehicles.



## Sec.

- 101-38.702 Storage.  
 101-38.702-1 Procurement of parking accommodations.  
 101-38.703 Sale of motor vehicles.

**Subpart 101-38.8—Standard Form 149, U.S. Government National Credit Card**

- 101-38.800 General.  
 101-38.801 Obtaining SF 149, U.S. Government National Credit Card.

**Subpart 101-38.9—Federal Motor Vehicle Fleet Report**

- 101-38.900 Scope.  
 101-38.901 General.  
 101-38.902 Records.  
 101-38.903 Reporting of data.

**Subparts 101-38.10—101-38.47 [Reserved]****Subpart 101-38.48—Exhibits**

- 101-38.4800 Scope of subpart.  
 101-38.4801 Examples of agency legends and identification.

**Subpart 101-38.49—Forms**

- 101-38.4900 Scope of subpart.  
 101-38.4901 Standard Forms; availability.  
 101-38.4902 GSA Forms; availability.

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

**§ 101-38.000 Scope of part.**

The provisions of this part prescribe policies and procedures governing the economical and efficient management and control of Government-owned motor vehicles and motor vehicles rented or leased to the Government, including reporting, registration, official use, inspection, and identification. Agencies should incorporate appropriate provisions of this Part 101-38 into contracts offering Government furnished equipment in order to ensure adequate control over use of the vehicles.

**Subpart 101-38.0—Definition of Terms****§ 101-38.001 Definitions.**

In Part 101-38, the following definitions apply.

**§ 101-38.001-1 Head of executive agency.**

"Head of executive agency" means the head of a department or independent establishment in the executive branch, including any wholly-owned Government corporation, or an official designated in writing to act on his or her behalf.

**§ 101-38.001-2 Acquired for official purposes.**

"Acquired for official purposes" means motor vehicles located in the United States, its territories, or possessions (a) gained and held or (b) rented or leased from private or commercial sources for a period of 60 continuous days or more by a Federal agency or the District of Columbia. This

definition shall not be construed as the authority for the use of motor vehicles for a period of less than 60 continuous days in any manner other than for official purposes.

**§ 101-38.001-3 Commercial design motor vehicle.**

"Commercial design motor vehicle" means a motor vehicle procurable from regular production lines and available for use by Federal agencies.

**§ 101-38.001-4 Military design motor vehicle.**

"Military design motor vehicle" means a motor vehicle (excluding general purpose vehicles) designed in accordance with military specifications to meet transportation requirements for the direct support of combat or tactical operations, or for training of troops for such operations.

**§ 101-38.001-5 Identification.**

"Identification" includes the legends "For Official Use Only" and "U.S. Government" placed upon a motor vehicle and other identification showing the full name of the department, executive agency, establishment, corporation, or service. In lieu of the organizational name, a title which is descriptive of the service within which the vehicle is operated may be used, so long as the title identifies the department, establishment, corporation, or agency concerned.

**§ 101-38.001-6 Owning agency.**

"Owning agency" means an executive agency having accountability for Government-owned motor vehicles. This term applies when an executive agency has authority to take possession of, assign, or reassign the vehicles regardless of which Federal agency is the using agency.

**§ 101-38.001-7 Using agency.**

"Using agency" means a Federal agency using vehicles for which it does not have accountability. This term applies when an agency obtains vehicles from the Interagency Fleet Management System, commercial firms, or another Federal agency on a temporary basis.

**§ 101-38.001-8 Vehicle lease.**

"Vehicle lease" is a method of obtaining a vehicle by an agency by contract or other arrangement from a commercial source for a period of 60 continuous days or more. It is synonymous with the phrase "term rental" previously used.

**§ 101-38.001-9 Vehicle rental.**

"Vehicle rental" is a method of obtaining a vehicle by an agency by

contract, schedule, or other arrangement from a commercial source for a period of less than 60 continuous days. It is synonymous with the phrase "trip rental" previously used.

**§ 101-38.001-10 Reportable vehicles.**

"Reportable vehicles" means all sedans, station wagons, buses, ambulances, carryalls, trucks, and truck tractors that operate on petroleum-based fuels. Included are all vehicles of the types named that use diesel, gasoline, propane, methane, or a combination of these fuels with gasoline when these vehicles are integrated into the normal agency fleets. Excluded are semitrailers, trailers, and other trailing equipment such as pole trailers, dollies, cable reels, trailer coaches, and bogies; trucks with permanently mounted equipment (e.g., generators, air compressors, etc.); fire trucks; electric and hybrid-powered electric vehicles; motorcycles; and military design motor vehicles.

**§ 101-38.001-11 Large fleet.**

"Large fleet" means a fleet of 2,000 or more reportable agency-owned vehicles, worldwide.

**§ 101-38.001-12 Small fleet.**

"Small fleet" means a fleet of less than 2,000 reportable agency-owned vehicles, worldwide.

**§ 101-38.001-13 Domestic fleet.**

"Domestic Fleet" means all reportable agency-owned motor vehicles operated in any State, Commonwealth, territory or possession of the United States.

**§ 101-38.001-14 Foreign fleet.**

"Foreign fleet" means all reportable agency-owned motor vehicles operated in areas outside any State, Commonwealth, territory, or possession of the United States.

**§ 101-38.001-15 Tag.**

"Tag" means the official U.S. Government motor vehicle identification plate; District of Columbia license plate; or license plate of any State, Commonwealth, territory, or possession of the United States.

**§ 101-38.001-16 Fleet average fuel economy.**

"Fleet average fuel economy" means the total number of passenger automobiles and light trucks, acquired by purchase or leased for 60 continuous days or more, of a specific configuration (4×2 or 4×4, up to 8,500 pounds gross vehicle weight rating (GVWR)) during a fiscal year by executive agencies (excluding passenger automobiles or



light trucks acquired to perform combat-related missions for the U.S. Armed Forces or acquired for use in law enforcement work or emergency rescue work) divided by a sum of terms, each term of which is a fraction created by dividing the number of passenger automobiles or light trucks (4x2 or 4x4) so acquired of a given model type by the fuel economy of that model type. (see § 101-38.101-3(b)(4)).

#### § 101-38.001-17 Acquired.

"Acquired" means purchased or leased for a period of 60 continuous days or more but does not include passenger vehicles or light trucks obtained on assignment from the Interagency Fleet Management System, or rented for periods less than 60 continuous days through commercial sources.

#### § 101-38.001-18 Law enforcement vehicle.

"Law enforcement vehicle" means a passenger automobile or light truck which is specifically approved in an agency's appropriation act for use in apprehension, surveillance, police type or other law enforcement work, or specifically designed for use in law enforcement. If not identified in an agency's appropriation language, to qualify as a law enforcement vehicle designed for use in law enforcement, the vehicle must be equipped with at least the following components:

(1) For passenger automobiles, heavy duty components for electrical, cooling, and suspension systems and at least the next higher cubic inch displacement (CID) or more powerful engine, than is standard for the automobile concerned; and,

(2) For light trucks, emergency warning lights must be displayed and the vehicle must be identified with markings, such as "police."

#### § 101-38.001-19 Light truck.

"Light truck" means a truck up to 8,500 pounds gross vehicle weight rating (GVWR), which is a four-wheeled vehicle propelled by fuel (gasoline or diesel oil), is manufactured primarily for use on public streets, roads, and highways, and is contained in Federal Standard No. 307 (Trucks: Light commercial, two-wheel drive) or Federal Standard No. 293 (Trucks: Light commercial, four-wheel drive).

### Subpart 101-38.1—Motor Vehicle Acquisitions

#### § 101-38.100 Scope and applicability.

(a) This subpart prescribes policies and procedures relating to the GSA motor vehicle procurement and leasing program and defines requirements and

guidelines to provide energy conservation in motor vehicles used for official purposes by the Federal Government.

(b) This subpart applies to executive agencies located in the United States, its territories, or possessions of the United States which operate Government-owned, -leased, or -rented motor vehicles in the conduct of official business. This subpart does not apply to motor vehicles exempted by law or other regulations. Other Federal agencies are encouraged to comply with the requirements and guidelines of this subpart so that maximum energy conservation benefits may be realized in the acquisition, operation, and management of Government-owned or -leased motor vehicles.

#### § 101-38.101 Acquisition of fuel efficient motor vehicles.

##### § 101-38.101-1 Classification of passenger automobiles.

Passenger automobiles shall be classified according to the current edition of Federal Standard No. 122 as follows:

Sedan class	Station wagon class	Descriptive name
IA		Small
IB		Subcompact
II	I	Compact
III	II	Midsize
IV	III	Large
V	IV	Limousine

##### § 101-38.101-2 Mandatory provisions affecting the acquisition and use of motor vehicles.

(a) Except for those vehicles exempted under the provisions of § 101-38.101-3(b)(6), all motor vehicles acquired for official purposes by executive agencies shall be selected to achieve maximum fuel efficiency and limited to the minimum body size, engine size, and optional equipment necessary to meet agencies' requirements.

(b) Use of Government limousines (class V) and large (class IV) sedans shall be eliminated. Exceptions shall be made only for the President and Vice President and for security and highly essential needs. Executive agencies shall certify all exceptions to the Administrator of General Services.

(c) All classes IV and V sedans shall be replaced by class II or smaller sedans unless a class III is absolutely essential to the agency's mission and certified accordingly to the Administrator of General Services.

(d) Executive agencies are governed by the provisions of 31 U.S.C. 1344 and 1349 and 18 U.S.C. 641 which define and

govern the use of motor vehicles for official purposes.

#### § 101-38.101-3 Acquisition of fuel efficient passenger automobiles and light trucks.

(a) This section provides policy and procedures governing the acquisition of fuel-efficient passenger automobiles and light trucks by executive agencies and provides for the administration of a consolidated Federal fleet plan for use in monitoring those acquisitions. This authority is derived from Executive Order 11912, dated April 13, 1976, and Executive Order 12375, dated August 4, 1982, which designate and empower the Administrator of General Services to perform, without approval, ratification, or other action by the President the functions vested in the President by section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010).

(b) The acquisition of passenger automobiles by an executive agency shall be limited to class IA, IB, or II (small, subcompact, or compact) unless the agency certifies to the Administrator of General Services that a larger class vehicle is essential to the agency's mission. The certification shall include the reasons for requiring a vehicle larger than a class III, compact.

(1) In compliance with Executive Orders 11912 and 12375, GSA administers a consolidated Federal fleet plan for passenger automobiles and light trucks acquired by executive agencies. The plan is based on forecasts of total passenger automobile and light truck acquisition requirements by vehicle class submitted by executive agencies to GSA. This forecast substantiates that each agency's acquisition plan conforms with Executive Order 12375; i.e., the agency plan will achieve the fleet average fuel economy for the applicable fiscal year. GSA administers the plan by maintaining a master record of the miles per gallon rating for passenger automobiles and light trucks actually acquired by each agency during the fiscal year.

(2) The Federal fleet plan enables GSA to predict the total fleet average fuel economy to be achieved by all executive agencies before the end of each fiscal year and to provide management assistance to agencies to ensure compliance with Executive Order 12375. Forecasts of planned acquisitions shall be forwarded to the General Services Administration, ATTN: FBF, Washington, DC 20406, not later than December 31st of each year, in accordance with the requirements set forth in § 101-38.102. Interagency report



control number 0162-GSA-AN has been assigned to this forecast.

(3) Passenger automobiles and light trucks acquired by executive agencies must meet the fleet average fuel economy objectives set forth below for the appropriate fiscal year:

Fiscal year	Average fuel economy standard <sup>1</sup>	Miles per gallon		
		Passenger automobiles	Light trucks	
			Fleet average fuel economy <sup>2</sup>	Fleet average fuel economy <sup>2</sup>
			4x2	4x4
1977	18.0	18.0		
1978	18.0	20.0		
1979	19.0	22.0	17.2	15.8
1980	20.0	24.0	16.0	14.0
1981	22.0	26.0	16.7	15.0
1982	24.0	24.0	18.0	16.0
1983	26.0	26.0	19.5	17.5
1984	27.0	27.0	20.3	18.5
1985	27.5	27.5	19.7	18.9
1986	26.0	26.0	20.5	19.5
1987	27.5	27.5	21.0	19.5
1988 and beyond			(*)	(*)

<sup>1</sup> Established by section 502 of the Motor Vehicle Information and Cost Savings Act (89 Stat. 902, 15 U.S.C. 2002) and the Secretary of Transportation.

<sup>2</sup> Established by the Secretary of Transportation and mandated by Executive Order 12003 through fiscal year 1981 and by Executive Order 12375 beginning in fiscal year 1982.

<sup>3</sup> No requirement established by Department of Transportation.

$$= \frac{200}{17} + \frac{75}{16} + \frac{100}{24} + \frac{200}{20} + \frac{25}{21} = 11.765 + 4.688 + 4.167 + 10.0 + 1.190 = \frac{600}{31.810} = 18.9 \text{ (Rounded to nearest 0.1 mpg.)}$$

(5) An agency may request exemptions from this § 101-38.101-3(b)(4) for light trucks or categories of light trucks if they are determined to be appropriate in terms of energy conservation, economy, efficiency, or service. Agencies shall submit these requests in writing to the Administrator of General Services, Washington, DC 20405, and shall state the reasons supporting the request for exemption. The Administrator will review the request, determine if the request is appropriate, and advise the requesting agency of the determination. Light trucks exempted under the provisions of this paragraph shall not be included in the calculation of an agency's fleet average fuel economy.

(6) This subpart does not apply to passenger automobiles and light trucks designed to perform combat-related missions for the U.S. Armed Forces or designed for use in law enforcement or emergency rescue work.

(4) The method of calculating the fleet average fuel economy uses harmonic averaging and is specifically required by section 510 of the Motor Vehicle Information and Cost Savings Act (89 Stat. 915; 15 U.S.C. 2010) and applies to the calculations for passenger automobiles and light trucks. A sample of the method used to calculate the fleet average fuel economy is shown below. This information is derived from the total number of vehicles to be acquired by an agency and the Environmental Protection Agency (EPA) miles per gallon rating provided by GSA in accordance with § 101-38.102(a).

Light trucks: 4x2, total number (600) divided

(A) Six-cylinder automatic transmission van wagons and van-panels (200) divided by 17 mpg, plus

(B) Eight-cylinder automatic transmission van and van-panels (75) divided by 16 mpg, plus

(C) Six-cylinder manual transmission pickups (100) divided by 24 mpg, plus

(D) Six-cylinder automatic transmission pickups (200) divided by 20 mpg, plus

(E) Six-cylinder automatic transmission sedan deliveries (25) divided by 21 mpg.

#### § 101-38.102 Agency forecasts of planned acquisitions.

(a) Executive agencies shall furnish to the General Services Administration ATTN: FBF, Washington, DC 20406, a forecast of vehicles to be acquired for domestic fleets in the current fiscal year using the unadjusted combined city/highway mileage ratings for passenger automobiles and light trucks developed by the EPA for each fiscal year. The forecast shall be submitted to GSA by December 31st for each year. GSA issues information concerning the EPA mileage ratings and the miles per gallon ratings to be used for the forecast each fiscal year, in sufficient time to enable agencies to plan their acquisitions and to prepare the forecasts. Agencies not planning any acquisitions (purchases or commercial leases) or agencies that satisfy their total motor vehicle requirements through the GSA Interagency Fleet Management System shall furnish a negative report.

(b) The forecast of the total agency passenger automobiles and light trucks

to be acquired shall include vehicles to be procured or leased for use in any State or Commonwealth of the United States. The forecast shall not include passenger automobiles and light trucks—

(1) Procured or leased to be used outside the foregoing areas;

(2) Designed to perform combat-related missions for the U.S. Armed Forces; or

(3) Designed for use in law enforcement work or emergency rescue work.

(c) Requisitions for passenger automobiles and light trucks sent to GSA for procurement action, but for which a contract is not awarded during the same fiscal year the requisitions are submitted, shall be included in the acquisition forecast for the following fiscal year.

(d) When a vehicle lease contains an option to renew and the option is exercised, that renewal action shall not be included in the forecast as a new acquisition. However, before the exercise of the renewal option, an agency must submit its requirements to GSA for appropriate action in accordance with § 101-39.204, to determine if the requirement can be satisfied through the Interagency Fleet Management System.

(e) In order to maintain a master record of all leased passenger vehicles and light trucks under 8500 pounds (GVWR), agencies shall forward to the General Services Administration, ATTN: FBF, Washington, DC 20406, copies of lease agreements for those vehicles leased for a period of 60 continuous days or more, or they may submit the following information:

- (1) Number of vehicles, by category;
  - (2) Year;
  - (3) Make;
  - (4) Model;
  - (5) Transmission type (if manual, number of forward speeds);
  - (6) Cubic inch displacement;
  - (7) Fuel system (fuel injection or carburetor (number of barrels));
  - (8) Monthly lease cost;
  - (9) Duration of lease (include option to renew);
  - (10) Vehicle type (4x2 or 4x4—light trucks only);
  - (11) Gross vehicle weight rating (GVWR): Light trucks only; and
  - (12) Lessor's name and address.
- (f) Submission of requisitions for procurement or requests for authority to lease vehicles, which in the judgment of GSA will result in noncompliance with the fleet average fuel economy by the end of the fiscal year, may result in requisitions being held in abeyance.



pending adjustment to the agency's acquisition plan to ensure compliance with fuel economy requirements.

(g) Requisitions submitted to GSA for vehicles shall conform to the requirements of § 101-38.104.

(h) Agencies may request GSA assistance when preparing the forecasts of vehicle acquisition requirements by contacting the General Services Administration, ATTN: FBF, Washington, DC 20406.

#### § 101-38.103 Leasing of motor vehicles.

(a) Under the provisions of §§ 101-38.101-2 and 101-38.102(d), all requirements for leased motor vehicles that are needed by Federal executive agencies for 60 consecutive days or more, shall be submitted to General Services Administration, ATTN: FBF, Washington, DC 20406, for a determination of whether the requirements can be satisfied through the Interagency Fleet Management System. The request shall be prepared in accordance with the requirements of § 101-39.205.

(b) All charter services are exempted from the provisions of this section.

#### § 101-38.103-1 Schedule leasing program.

When GSA can not fill a request for vehicle support, it refers the agency, when appropriate, to GSA's indefinite quantity lease under Federal Supply Schedule 751, Part II, Automobiles and Light Truck Vehicles: Closed-end lease, without maintenance. This schedule covers subcompact, compact, and midsize sedans, compact station wagons, and certain classes of light trucks, both 4x2 and 4x4, and is a mandatory use schedule for all executive agencies within the conterminous 48 States and Washington, DC, except for the Department of Defense (DOD) and the U.S. Postal Service. Leases normally cover a period of 1 year with an option for two 12 month renewals. When an agency's lease period extends from one fiscal year to the next, delivery orders should, if appropriate, cite the statement "subject to the availability of funds."

#### § 101-38.104 General.

Except as provided for the DOD in paragraph (a) of this section, each executive agency shall submit to GSA its orders for purchase in the United States of all new passenger motor vehicles (FSC 2310), trucks or truck tractors (FSC 2320), trailers (FSC 2330) van-type (with payload of not less than 5,000 nor more than 50,000 pounds), and fire trucks and fire fighting trailers (FSC 4210). Specifically included are sedans, station wagons, carryalls, ambulances,

buses, and trucks, including trucks with specialized mounted equipment, truck chassis with special purpose bodies, and all van-type trailers (with payload of not less than 5,000 nor more than 50,000 pounds).

(a) DOD acquisition requirements for commercial-type passenger motor vehicles (FSC 2310), including buses and trucks (FSC 2320) up to 10,000 GVWR must be submitted to General Services Administration, ATTN: FCA, Washington, DC 20406, except for the following:

- (1) Buses, convertible to ambulances;
- (2) Trucks, convertible to ambulances; and
- (3) Trucks, 4 x 4, dump, 9,000 pounds GVWR with cut-down cab.

(b) When the requisitioning agency determines that requirements for passenger motor vehicles and trucks indicate the need for procurement by activities other than GSA, a request for waiver justifying the procurement shall be submitted in writing to the General Services Administration, ATTN: FCA, Washington, DC 20406. GSA will notify agencies in writing, whether a waiver has been granted. Justification for special purpose trucks may be based on urgency of need or that the vehicle has unique characteristics such as a special purpose body or equipment that may require close supervision by agency personnel to ensure proper installation of the equipment by the contractor; e.g., when a medical van is to be equipped with Government or contractor-supplied equipment. Requests for procurement through sources other than GSA will be handled on an individual basis provided full justification is submitted.

(c) When GSA determines that procurement of an individual agency requirement by GSA would offer no advantage over local purchase of the item, GSA may grant the ordering activity authority for local purchase. When such a determination is made, the order will be returned to the ordering agency with written authority for local purchase.

#### § 101-38.104-1 Purchase of new motor vehicles.

(a) Purchase of new sedans, station wagons, and light trucks other than those to be used for law enforcement, shall be limited to standard vehicles (unless other than standard vehicles are specially required) as follows: sedans, class IA-small, class IB-subcompact, or class II-compact; station wagons, class I-subcompact or class II-compact vehicles, as described in Federal Standard No. 122; and light trucks as defined in Federal Standard Nos. 292 and 307. (Federal Standard Nos. 122,

292, and 307, as used in this section, mean the latest editions.) Medium and heavy duty trucks will be purchased according to the provisions of § 101-26.5. Requisitions submitted to GSA for motor vehicles shall be in conformance with the requirements of § 101-38.101.

(1) Standard passenger vehicles as defined in Federal Standard No. 122 are considered to be completely equipped for ordinary operation and are subject to the statutory maximum price limitation.

(2) Items (vehicles) included in Federal Standard No. 122, other than those listed as standard, are considered to be equipped with additional systems and equipment for passenger vehicles.

(b) The agency head or a designee shall certify that requisitions submitted to GSA for new passenger vehicles, and light trucks under 8,500 GVWR, conform to the provisions of Executive Order 12375. The certification may be placed on the requisition or on an appropriate attachment.

#### § 101-38.104-2 Additional systems and equipment for passenger motor vehicles.

In accordance with this subpart, passenger motor vehicles may be procured with additional systems and equipment as listed in Federal Standard No. 122 (i.e., the latest edition or any interim standard being used temporarily as a replacement); and applicable additional systems and equipment so indicated in the Federal standard may be procured for Government-owned or -operated passenger motor vehicles, provided the guidelines contained in this subpart are met. For procuring additional systems and equipment for Government-owned or -operated passenger motor vehicles, a determination shall be made that vehicles needing the systems and equipment have at least 2 years expected remaining serviceable life and have been driven less than 40,000 miles. If the guidelines cannot be met or the required item is not shown in the Federal standard and the agency considers the item to be essential, a justification shall be submitted to the General Services Administration, ATTN: FCA, Washington, DC 20406, for approval before procurement.

(a) Selection of additional systems and equipment in vehicles shall be made by the requiring agency and shall be based on the need to provide for overall safety, efficiency, economy, and suitability of the vehicle for the purposes intended pursuant to this subpart.

(1) The requisitioning agency shall weigh the need for such systems or equipment against the economic factors



involved, the potential benefits to be derived, and the impact on the fuel consumption characteristics of the vehicle.

(2) GSA will consider that the agency head or designee has approved additional systems and equipment requested as being essential. When systems and equipment other than those listed in Federal standards are requested, these systems and equipment shall be considered and treated as deviations under § 101-38.104-4.

(b) The acquisition shall be based on the need to provide for overall economy, efficiency, safety, and suitability of the vehicle with the additional items, and in consideration of the:

(1) Climatic conditions prevailing in the area of vehicle operation.

(2) Effect on vehicle operational capability.

(3) Special terrain requirements.

(4) Availability of maintenance and service facilities.

#### § 101-38.104-3 Consolidated purchase program.

(a) To achieve maximum benefits and economies, GSA makes consolidated procurements of all motor vehicle types each year as follows:

(1) Two volume procurements of sedans and station wagons of the types covered by Federal Standard No. 122 and a possible third such volume procurement under circumstances described in § 101-38.104-6.

(2) Two volume procurements of light trucks of the types covered by Federal Standard Nos. 292 and 307, and a possible third such procurement under the circumstances described in § 101-38.104-6.

(b) Volume consolidated purchases are made after consolidation of requirements in accordance with the dates set forth in § 101-38.104-6. To ensure delivery within a given fiscal (model) year and to obtain the greatest possible savings, agencies should submit at least 75 percent of their annual requirements, for the types of vehicles covered by Federal Standard Nos. 122, 292, and 307 that can be competitively procured, to the General Services Administration, ATTN: FCA, Washington, DC 20406 in time for inclusion in the first or second volume consolidated purchase as schedule in § 101-38.104-6(a).

(c) When justified as indicated in § 101-38.104-6, requirements for sedans, station wagons, and light trucks will be consolidated and procured on a monthly basis.

(d) Requirements for sedans, station wagons, and light trucks not covered by Federal Standards Nos. 122, 292, or 307

shall conform with the provisions of § 101-38.104-4 (a), (b), and (c).

#### § 101-38.104-4 Submission of requisitions and delivery orders.

Orders for all motor vehicles shall be submitted on GSA Form 1781, Motor Vehicle Requisition—Delivery Order, or DD Form 448, Military Interdepartmental Purchase Request (MIPR), to the General Services Administration ATTN: FCA, Washington, DC 20406, and shall contain required FEDSTRIP data for automated processing. The DOD shall ensure that appropriate MILSTRIP data are entered on DD Form 448.

(a) Requisition covering vehicle types not included in Federal Standard Nos. 122, 292, or 307, in a military specification, or in an agency specification on file with GSA, shall contain complete descriptions of the vehicles required, the intended use of the vehicles, and terrain where the vehicles will be used.

(b) Requisitions for vehicles within the category of Federal Standard Nos. 122, 292, or 307 for which deviations from such Federal standards are required, unless already waived by the General Services Administration, Automotive Commodity Center, ATTN: FCA, GSA, shall include with the requisition a justification supporting each deviation from the Federal standards and shall contain a statement of the intended use of the vehicles, including a description of the terrain where the vehicles will be used. Prior approval of deviations shall be indicated on the requisition by citing the waiver authorization number.

(c) GSA Form 1781, Motor Vehicle Requisition—Delivery Order (see § 101-38.4902), has been specifically designed for agency use to expedite ordering of all vehicles. Agencies are requested to use GSA Form 1781 as a single-line-item requisition for nonstandard as well as standard vehicles. When ordering standard vehicles the appropriate item number of such vehicles equipped to meet specific operational needs may be selected from the applicable table in the Federal standards. Additional systems and equipment may be added by inserting in the "Standard Option(s)" portion of block 9 of the form the appropriate code for the selected items from the table of options in the Federal standard. When ordering nonstandard vehicles or options, the instructions on the reverse of GSA Form 1781 shall be followed. Submission of GSA Form 1781, properly completed, will satisfy the requirements regarding the submission of requisitions as set forth in paragraph (a) of this section.

(d) Each requisition shall indicate the appropriation/fund code to be charged and must bear the original signature of an officer authorized to obligate cited funds.

(e) A separate requisition shall be submitted for each vehicle type and consignee.

#### § 101-38.104-5 Procurement leadtimes.

The following table shall be used to estimate delivery dates of motor equipment purchase by GAS for other agencies.

Federal supply classification (FSC) codes	Commodities	Lead time in calendar days
2310 <sup>1</sup>	Passenger vehicles.....	285
2310 <sup>1</sup>	Buses.....	370
2320 <sup>1</sup>	Light trucks 4 x 2 and 4 x 4 under 11,000 GVW.....	285
2320 <sup>1</sup>	All trucks over 11,000 GVW.....	350
2330 <sup>1</sup>	Trailers.....	285
4210	Fire trucks.....	400

<sup>1</sup> For vehicles in Federal Supply Classes 2310, 2320, and 2330 included in GSA's consolidated volume and monthly purchase programs, see 101-38.104-6(d) for procurement and delivery time schedules.

#### § 101-38.104-6 Procurement time schedules.

(a) *Volume consolidated purchases.* Requisitions covering vehicle types included in Federal Standard Nos. 122, 292, or 307 will be consolidated for volume procurement unless a statement is included justifying the need for delivery other than the delivery times indicated in this section. Requisitions containing a statement of justification will be handled on a monthly basis in accordance with this § 101-38.104-6(b)(1), or on an emergency basis in accordance with this § 101-38.104-6(c).

#### TIME SCHEDULE FOR VOLUME CONSOLIDATIONS (SEE NOTE)

Vehicle category	Consolidation period
A. Sedans and station wagons of types covered by Fed. Std. No. 122.	I March 10 to September 9. II September 10 to January 9. III January 10 to March 9. <sup>1</sup>
B. Light trucks of types covered by Fed. Std. Nos. 292 and 307.	I March 10 to August 9. II August 10 to December 15. III December 16 to March 9. <sup>1</sup>

<sup>1</sup> Agencies are cautioned that a solicitation covering requisitions for sedans and station wagons and light trucks received during this consolidation period will be issued only if it is determined by GSA prior to issuance that competitive bids can be obtained. Otherwise, such requisitions will be held for inclusion in the next volume consolidated procurement. Note: See § 101-26.501-4 for vehicle volume consolidation time schedules for medium and heavy duty trucks.

#### (b) *Monthly consolidated purchases.*

(1) Requirements for vehicles to be included in monthly consolidated purchases must be received by the General Services Administration, ATTN: FCA, Washington, DC 20406 by the dates indicated in the schedule set



forth below. Requirements received after these dates will be carried over to the following month's purchase. In the interest of timely and orderly preparation of solicitations, ordering agencies are urged to submit each requisition as soon as it is prepared instead of holding it for submission with later requirements. Requisitions need not specify a delivery date since delivery will be in accordance with the delivery time indicated in the § 101-38.104-6(d). Requests for special handling of other than strictly emergency requirements shall not be submitted.

#### TIME SCHEDULE

Vehicle category	Monthly consolidation dates
(i) Passenger carrying vehicles and light trucks of types not covered by Fed. Std. Nos. 122, 292, or 307 and ambulances.	20th of each month.
(ii) Buses, trucks (other than light trucks in category (i) above), and trailers of not less than 5,000 lbs.	Last day of each month.
(iii) All other categories and types of vehicles.	Last day of each month.

(2) Solicitations issued in September for the consolidated purchase of vehicles will cover only the requirements of those executive agencies whose requisitions are required by § 101-38.104 to be placed with GSA. (Submission of requirements for vehicles in categories (i), (ii), and (iii), above, is mandatory to the extent provided in § 101-38.104.)

(3) No assurance can be given as to price and time of delivery of vehicles on requisitions received by GSA after the 9th of March. This is because of the industry practice of closing out the production of the current year's model and retooling for new models. Agencies should bear this in mind when programming their requirements. Agencies submitting requisitions for sedans, station wagons, and light trucks that cannot be placed on contract before the end of the fiscal year in which submitted will be notified by GSA.

(c) *Emergency requirements.* Emergency requirements will receive special handling only when the requisitions are accompanied by adequate justification for individual purchase action. Every effort will be made to meet the delivery date specified in the requisition.

(d) *Delivery time.* Delivery times for motor vehicle requirements submitted for monthly consolidated and volume consolidated purchases will range from 210 to 330 days after final dates for consolidation of requisitions provided in § 101-38.104-6 (a) and (b)(1). Included in delivery time estimates are 90 to 105

days required for soliciting and receiving bids, 30 to 45 days for evaluation and award of contracts, and 90 to 180 days from date of award for delivery of vehicles to the consigned locations. For buses, ambulances, and other special duty vehicles procured under monthly consolidated purchases, 240 to 270 days from date of award are usually required to effect delivery. However, special purpose vehicles with unique characteristics, such as certain types of firetrucks, may require longer delivery. In such instances, every effort will be made by GSA to facilitate deliveries and keep the requisitioning agencies informed of any unanticipated delay.

#### § 101-38.104-7 Forms used with delivery of motor vehicles.

(a) *GSA Form 1398, GSA Purchased Vehicle.* This form is used by the contractor to indicate that preshipment inspection and servicing of each vehicle have been performed. The contractor is required to complete GSA Form 1398 (see § 101-38.4902) and affix it, preferably, to the lock face or door frame of the right front door after the final inspection. The form should be left in place during the warranty period to permit prompt identification of vehicles requiring dealer repairs pursuant to the warranty.

(b) *Standard Form 368, Quality Deficiency Report (Category II).* To report and document deficiencies noted during the life of the vehicles. Standard Form 368 shall be prepared by the consignee and sent to GSA, describing details of vehicle deficiency and action taken for correction. Procedures for documenting and reporting quality deficiencies are set forth in the GSA Handbook, "Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8)". Agencies are urged to report all deficiencies to GSA irrespective of satisfactory corrective action taken by the manufacturer's authorized dealer. If the dealer refuses to take corrective action on any vehicle within its warranty period, the report shall so state and include an explanation of the circumstances. Standard Form 368 shall also be used to report all noncompliance with specifications or other requirements of the delivery order.

(c) *Instructions to Consignee Receiving New Motor Vehicles Purchased by GSA.* (Formerly GSA Form 6317.) This information is printed on the reverse of the consignee copy of the delivery order. Personnel responsible for receipt and operation of Government motor vehicles should be

familiar with the instructions and information contained on the reverse of the consignee copy of the delivery order.

#### § 101-38.104-8 Notification of motor vehicle defects.

Section 151 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1411), requires every manufacturer of motor vehicles to furnish notification of any defect in any motor vehicle or item of replacement equipment produced by the manufacturer which is determined to be, in good faith, related to motor vehicle safety, or of any motor vehicle or item of replacement equipment which he finds on good faith does not comply with an applicable Federal motor vehicle safety standard. Section 152 of the Act (15 U.S.C. 1412) requires such notice on the part of the manufacturer following notification by the Secretary of Transportation of such defects or nonconformity. The notification is sent by first class mail directly to the using activity of the motor vehicle or motor vehicle equipment, within a reasonable time after the manufacturer has discovered the defect or after notification by the Secretary of Transportation of the defect.

(a) Agencies must promptly act on motor vehicle defect notices to avoid accidents, loss of life, and costly repairs and nonavailability of vehicles due to these repairs. On newly procured vehicles, the manufacturers will send "Motor Vehicle Defect Notices" to the original consignee at the consignee's mailing address shown on the vehicle delivery order. However, agency heads shall notify manufacturers of the exact address to which "Motor Vehicle Defect Notices" are to be sent when vehicles are transferred within the Federal Government. Notification shall be made on all 1971 or later model vehicles. Agencies shall use the following format:

All identification information shall be annotated on the format as requested.

TO: (Vehicle Manufacturer) <sup>1</sup>

Information on the motor vehicles listed is submitted to assist you in complying with section 151 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (15 U.S.C. 1411).

This notice covers (show number of vehicles) transferred vehicles.

a. Address of original owner of vehicle:

b. Address to which future motor vehicle defect notices are to be sent:







**§ 101-38.201-2 Outside the District of Columbia.**

Motor vehicles acquired for official purposes and regularly operated outside of the District of Columbia need not be registered in the States, Commonwealth, territories, or possessions in which they are primarily used, except that motor vehicles exempted under § 101-38.200(f) and § 101-38.204 shall be registered and inspected in accordance with the laws of the State, Commonwealth, territory, or possession.

**§ 101-38.202 Tags.****§ 101-38.202-1 In the District of Columbia.**

(a) The District of Columbia Code, section 40-102(b)(2) requires the issuance of certificates of registration and identification tags, without charge, for all motor vehicles owned by the Government at the time the vehicle is registered or reregistered as prescribed in § 101-38.201.

(b) Government-owned or -leased motor vehicles registered in the District of Columbia under § 101-38.201-1 and displaying official U.S. Government tags may have the letter code designation prescribed in § 101-38.202-4 stenciled in the blank space beside the embossed numbers. The letter code designation, if used, is to be stenciled on the tag in such a manner that the size and color of the letters are the same as, or similar to, the embossed numbers.

(c) Official U.S. Government tags issued by the District of Columbia, may be transferred, after approval by the Director of Transportation of the District of Columbia, only to another Government-owned or -leased motor vehicle of the same executive agency operating that vehicle in the District of Columbia. Damaged or mutilated tags removed from vehicles operating in the District of Columbia shall be delivered to the District of Columbia, Department of Transportation for cancellation. Whenever motor vehicles regularly based or operated in the District of Columbia are transferred for operation in a field area, transferred to another agency, or removed from Government service, the official U.S. Government tags issued by the District of Columbia shall be removed and delivered to the District of Columbia, Department of Transportation for cancellation.

**§ 101-38.202-2 Outside the District of Columbia.**

(a) Federal agencies operating motor vehicles acquired for use outside the District of Columbia shall obtain official U.S. Government tags from the Superintendent of Industries, District of Columbia, Department of Corrections,

Lorton, VA 22079. Those vehicles exempt under § 101-38.200(f) and § 101-38.204 must be licensed in the State, Commonwealth, territory or possession in which the vehicle is regularly operated.

(b) When ordering tags, the following applies:

(1) Purchase orders shall include the code letters and numbers to be imprinted on the tags; the dates on which deliveries are required; the consignee and shipping instructions; the symbol number of the appropriation to be charged; and the signature of an officer authorized to obligate the cited appropriation.

(2) For obligating purposes, the ordering agency should consult the Current Price List of Industrial Products and Services issued by the Superintendent of Industries. Federal agencies may request that they be added to the mailing list to receive the price lists by contacting the Superintendent of Industries, District of Columbia, Department of Corrections, Lorton, VA 22079.

(3) When requested by the ordering agency, tags will be shipped directly to field stations. If the size of the shipment requires the use of a Government bill of lading, the bill of lading shall accompany the purchase order. If the size of the shipment permits mailing, the Department of Corrections will supply the necessary postage and will add the cost to the invoice.

(4) Upon receiving the appropriate billing document, payment is to be made directly to the Superintendent of Industries, District of Columbia, Department of Corrections, Lorton, VA 22079.

(c) Subject to § 101-38.303-1, tags may be transferred to a new motor vehicle acquired for official purposes, returned to stock for reuse, or voided against further use as determined by the head of the owning agency, or designee. Tags which are voided shall be defaced or destroyed to prevent re-use.

**§ 101-38.202-3 Records.**

Each executive agency shall maintain a centralized record of all official U.S. Government tags in use on Government-owned and -leased motor vehicles for which that agency is accountable. Such records shall specify the motor vehicle for which the tags are assigned and shall include complete information regarding the reassignment of tags and a list of destroyed and/or voided tag numbers.

**§ 101-38.202-4 Numbering and coding.**

Official U.S. Government tags, except tags issued by the District of Columbia,

Department of Transportation under § 101-38.203-1, shall be numbered serially for each executive agency, beginning with 101, and shall be preceded by a letter code designating the agency having accountability for the motor vehicles as follows:

ACTION .....	ACT
Agriculture, Department of .....	A
Air Force, Department of .....	AF
Army, Department of the .....	W
Commerce, Department of .....	C
Consumer Product Safety Commis- sion .....	CPSC
Corps of Engineers, Civil Works .....	CE
Defense Contract Audit Agency .....	DA
Defense, Department of .....	D
Defense Logistics Agency .....	DLA
District of Columbia Redevelopment Land Agency .....	LA
Education, Department of .....	ED
Energy, Department of .....	E
Environmental Protection Agency .....	EPA
Executive Office of the President .....	EO
Council of Economic Advisors, National Security Council, Office of Management and Budget .....	
Export-Import Bank of the United States .....	EB
Federal Communications Commis- sion .....	FC
Federal Deposit Insurance Corpora- tion .....	FD
Federal Emergency Management Agency .....	FE
Federal Home Loan Bank Board .....	FB
Federal Mediation and Conciliation Service .....	FM
Federal Reserve System .....	FR
Federal Trade Commission .....	FT
General Accounting Office .....	GA
General Services Administration .....	GS
Government Printing Office .....	GP
Health and Human Services, Depart- ment of .....	HHS
Housing and Urban Development, Department of .....	H
Interagency Fleet Management System, GSA .....	G
Interior, Department of the .....	I
Interstate Commerce Commission .....	IC
Judicial Branch of the Government .....	JB
Justice, Department of .....	J
Labor, Department of .....	L
Legislative Branch .....	LB
National Aeronautics and Space Ad- ministration .....	NA
National Capital Housing Authority .....	NH
National Capital Planning Commis- sion .....	NP
National Guard Bureau .....	NG
National Labor Relations Board .....	NL
National Science Foundation .....	NS
Navy, Department of the .....	N
Nuclear Regulatory Commission .....	NRC
Office of Personnel Management .....	OPM
Panama Canal Commission .....	PC
Railroad Retirement Board .....	RR
Renegotiation Board .....	RB
Securities and Exchange Commis- sion .....	SE
Selective Service System .....	SS



Small Business Administration.....	SB
Smithsonian Institution.....	SI
National Gallery of Art.....	
Soldiers' and Airmen's Home, U.S.....	SH
State, Department of.....	S
Tennessee Valley Authority.....	TV
Transportation, Department of.....	DOT
Treasury, Department of.....	T
United States Information Agency.....	IA
United States Postal Service.....	P
Veterans Administration.....	VA

**§ 101-38.202-5 Requests for additional code designations.**

Additional code designations are issued by CSA upon written request to General Services Administration, ATTN: FBF, Washington, DC 20406.

**§ 101-38.202-6 Display of tags.**

(a) Each motor vehicle acquired for official purposes (except vehicles exempted by §§ 101-38.200(f) and 101-38.204) shall display official U.S. Government tags mounted on the front and rear of the vehicle, except two-wheeled vehicles, which require rear tags only. Motor vehicles of the DOD are governed by applicable departmental directives.

(b) Official U.S. Government tags shall be displayed on the motor vehicle to which originally assigned until the vehicle is removed from Government service or transferred, or until the tags are mutilated or defaced so as to necessitate their replacement.

**§ 101-38.202-7 Lost or stolen tags.**

Agency fleet managers, upon receipt of information on lost or stolen tags, should report the loss or theft to their local office of security (or equivalent) or the issuing Fleet Management System, as applicable. District of Columbia tags or other State tags which are lost or stolen should be reported to the District of Columbia, Department of Transportation, or the appropriate State agency.

**§ 101-38.203 Agency identification.**

The full name of the department, agency, establishment, corporation, or service owning the vehicle, or a title descriptive of the service in which it is operated (if such a title readily identifies the department, agency, establishment, corporation, or service concerned), shall be displayed conspicuously in letters contrasting to the color of the vehicle. This identification for other than vehicle windows shall be in letters between 1 inch high and 1½ inches high. Subsidiary words, or titles of subordinate units, if used, shall be in letters between ½ inch and ¾ inch high. The identification should be applied through the use of decals (elastomeric pigmented film type). Each agency is

responsible for acquiring its own decals. For examples of suggested possible arrangements, see § 101-38.4801. Law enforcement vehicles shall not be bound by the dimension requirements contained in this section. Identification on vehicle windows shall be of sufficient size to convey the proper legends and agency identification.

**§ 101-38.203-1 Civilian agencies**

Except as provided in § 101-38.200(d), § 101-38.200(f) and § 101-38.204, all Government-owned or leased motor vehicles shall be conspicuously identified by displaying the legends "For Official Use Only" and "U.S. Government," and immediately below the legends, the agency identification of the agency operating the vehicle. The legends and agency identification are to be located as follows:

(a) *On motor vehicles:* On the left side of the rear window, not more than one-and-one half inches from the bottom of the window.

(b) *On motor vehicles without rear windows or where the markings on the rear window are not conspicuous:* Centered on both front doors or in any appropriate position on each side of the vehicle.

(c) *On trailers:* Centered on both sides of the front quarter of the trailer in a conspicuous location.

**§ 101-38.203-2 Department of Defense.**

Commercial design motor vehicles of the Department of Defense (DOD) shall display the legend "For Official Use Only," an appropriate title for the DOD component, and the registration number assigned by the DOD component controlling the vehicle. Those vehicles operating within the District of Columbia must comply with § 101-38.201-1.

**§ 101-38.203-3 Removal of legend and agency identification.**

Whenever a vehicle is permanently removed from Government service, all agency identification and any other Government identification shall be removed from the vehicle before transferring the title or delivering the vehicle.

**§ 101-38.204 Exemptions.**

**§ 101-38.204-1 Unlimited exemptions.**

Unlimited exemptions from the requirement to display official U.S. Government tags and other identification are granted to the organizational activities of the agencies listed below, subject to the provisions of § 101-38.204-4.

(a) *Administrative Office of the*

*United States Courts.* All motor vehicles operated by United States probation offices and pretrial services agencies of the judicial branch of the U.S. Government.

(b) *Agriculture, Department of.* Motor vehicles that the Agricultural Marketing Service, Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Forest Service, Packers and Stockyards Administration, Food and Nutrition Service, and Office of the Inspector General use in the conduct of investigative or law enforcement activities.

(c) *Commerce, Department of.* Motor vehicles operated by the Office of Export Enforcement, International Trade Administration, and the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, for surveillance and other law enforcement activities.

(d) *Defense, Department of.* Motor vehicles used for intelligence, investigative, or security purposes, including such vehicles used by the U.S. Army Intelligence Agency and the Criminal Investigation Command of the Department of the Army; Office of Naval Intelligence of the Department of the Navy; Office of Special Investigations of the Department of the Air Force; and the Defense Criminal Investigative Service, Office of the Inspector General.

(e) *Education, Department of.* Motor vehicles operated by the Office of the Inspector General for law enforcement and investigative purposes.

(f) *Energy, Department of.* Motor vehicles that the Department of Energy uses in the conduct of security or investigative operations.

(g) *Federal Communications Commission.* Motor vehicles operated by the Field Operations Bureau for investigative purposes.

(h) *Health and Human Services, Department of.* Motor vehicles operated by the Food and Drug Administration in undercover law enforcement and similar investigative work; motor vehicles operated by St. Elizabeths Hospital in out-patient work where the identification of the vehicles would be prejudicial to the patient; one vehicle operated by the National Institutes of Health in transporting mentally disturbed children; and motor vehicles operated by the Office of Investigations and Office of the Inspector General that are used for law enforcement and investigative purposes.

(i) *Interior, Department of the.* Those motor vehicles operated by the U.S. Fish and Wildlife Service in the enforcement



of Federal game laws; motor vehicles assigned to the special agents of the Bureau of Land Management whose duties are to investigate crimes against public lands; motor vehicles assigned to special officers of the Bureau of Indian Affairs; and motor vehicles assigned to the special agents of the Office of Inspector General whose duties are to investigate possible crimes of fraud and abuse by departmental employees and its contractors and grantees.

(j) *Justice, Department of.* All motor vehicles operated in undercover law enforcement activities or investigative work by the Department.

(k) *Labor, Department of.* All motor vehicles used for investigation, law enforcement, and compliance by the Manpower Administration (Bureau of Apprenticeship and Training); Labor-Management Services Administration; Occupational Safety and Health Administration; Employment Standards Administration; and Mine Safety and Health Administration.

(l) *National Aeronautics and Space Administration.* Motor vehicles that the National Aeronautics and Space Administration uses in the conduct of investigation or law enforcement activities.

(m) *National Labor Relations Board.* Motor vehicles that the field offices use for investigative activities.

(n) *National Security Council.* All motor vehicles operated by the Central Intelligence Agency.

(o) *Nuclear Regulatory Commission.* Motor vehicles that the Nuclear Regulatory Commission designates for use in the conduct of security operations or in the enforcement of security regulations.

(p) *Office of Personnel Management.* Motor vehicles designated by the U.S. Office of Personnel Management for use in the investigative program of the Office of Personnel Investigations and Regional Investigation activities.

(q) *Postal Service, United States.* Motor vehicles that the Postal Inspection Service uses for investigative and law enforcement activities.

(r) *State, Department of.* All motor vehicles designated for the protection of both domestic and foreign dignitaries and motor vehicles used in the investigations of passport and visa fraud cases.

(s) *Transportation, Department of.* All motor vehicles used for intelligence, investigative, or security purposes by the DOT Office of Inspector General; the OST Office of Security; the Intelligence and Security Division and field counterparts in the U.S. Coast Guard; the Office of Civil Aviation Security and

field counterparts in the Federal Aviation Administration.

(t) *Treasury, Department of the.* All motor vehicles operated by the U.S. Secret Service; Intelligence Division, Internal Security Division, and vehicles used for investigative purposes by the Collection Division of the Internal Revenue Service; the Office of Criminal Enforcement and Office of Internal Affairs of the Bureau of Alcohol, Tobacco, and Firearms; and Office of Enforcement, Office of Management Integrity, Office of Internal Affairs and Office of Patrol of the U.S. Customs Service.

#### § 101-38.204-2 Special exemptions.

All vehicles assigned for the personal use of the President and the heads of executive departments as enumerated in 5 U.S.C. 101 are exempt from the requirement to display official identification. All vehicles, other than those assigned for the personal use of the President, shall display the official U.S. Government tags.

#### § 101-38.204-3 Requests for exempted motor vehicles in the District of Columbia.

The head of each executive agency shall designate an official to approve requests for regular District of Columbia tags for motor vehicles exempted from carrying U.S. Government tags and other identification. Agencies shall furnish the name and facsimile signature for each representative to the District of Columbia, Department of Transportation, annually.

#### § 101-38.204-4 Report of exempted motor vehicles.

The head of each executive agency shall submit a report, upon request, to the General Services Administration, ATTN: BFB, Washington, DC 20406, concerning motor vehicles exempted under Subpart 101-38.2. Interagency report control number 1537-GSA-AR has been assigned to this reporting requirement.

### Subpart 101-38.3—Official Use of Government Motor Vehicles

#### § 101-38.300 Scope.

This subpart prescribes the requirements governing the use of Government motor vehicles acquired for official purposes.

#### § 101-38.301 Authorized use.

Officers and employees of the Government shall use Government-owned or -leased motor vehicles for official purposes only. "Official purposes" does not include transportation of an officer or employee between his or her domicile and place of

employment, unless authorized under the provisions of 31 U.S.C. 1344, or other applicable law. A copy of any written approval shall be maintained at the appropriate level within the agency and a copy furnished to GSA if the vehicle concerned is provided through the Interagency Fleet Management System. Each agency should establish procedures to monitor and control the use of its vehicles at all times. Officers and employees entrusted with motor vehicles are responsible for the proper care, operation, maintenance, and protection of the vehicle. Any officer or employee who uses or authorizes the use of such vehicle for other than official purposes is subject to a suspension of at least 1 month or, up to and including, removal by the head of the agency (31 U.S.C. 1349.)

#### § 101-38.301-1 Contractors' use.

Heads of agencies are responsible for ensuring that the employees of contractors and subcontractors use Government-owned or -leased motor vehicles for official purposes only. ("Official purposes" do not include transportation of a contractor's employee between domicile and place of employment unless specifically provided for under the terms of the contract; and approved in writing by the contracting officer or otherwise provided by law); that employees of contractors and subcontractors authorized to use Government motor vehicles use such vehicles solely in the performance of the Government contract and subcontract thereunder; that such contractors and subcontractors establish and enforce suitable penalties for their employees who use or authorize the use of such vehicles for other than official purposes; and that appropriate provision is made for the assumption by the contractor or subcontractor of any cost or expense incident to use not related to the performance of the contract without the right of reimbursement from the Government for such cost or expense.

#### § 101-38.301-2 Violations.

Whenever the Administrator of General Services becomes aware of any violation of the provisions of § 101-38.301 or § 101-38.301-1 concerning the unauthorized use of Government motor vehicles, the Administrator, GSA, shall report the violation to the Head of the agency in which the vehicle operator is employed, for further investigation and appropriate disciplinary action under 31 U.S.C. 1349, or where appropriate, referral to the Attorney General for prosecution under 18 U.S.C. 641.



**Subpart 101-38.4—Use of Replacement Standards****§ 101-38.400 Applicability.**

The motor vehicle replacement standards prescribed in this subpart are the minimum standards to be used by all executive agencies desiring to replace motor vehicles. Executive agencies may retain motor vehicles that are in usable and workable condition even though the standard permits replacement, provided that the vehicle can be used or operated an additional period without excessive maintenance cost or substantial reduction in resale value. The fuel economy criteria set forth in § 101-38.101-3 must be followed in acquiring replacement vehicles.

**§ 101-38.401 Use standards.****§ 101-38.401-1 Gasoline for use in motor vehicles.**

Under Environmental Protection Agency (EPA) regulations, codified in 40 CFR Part 80, unleaded (0.05gm/gal.) gasoline shall be used in 1975 or later model year Government-operated motor vehicles designed to operate on such fuel (passenger carrying vehicles and trucks up to and including 6000 lbs. GVWR) within the 50 States. For earlier model year Government-operated motor vehicles within the 50 States, unleaded or low-leaded content (0.5 gm/gal.) gasoline shall be used unless it is clearly impractical to do so.

(a) Government-operated motor vehicles used overseas shall be fueled in accordance with this subpart unless—

(1) Such use would be in conflict with country-to-country or multinational logistics agreements; or

(2) Such gasolines are not available locally.

(b) The cost of gasoline shall not be a factor in determining the feasibility of using unleaded or lowlead content gasoline in earlier model year Government-operated motor vehicles. Manufacturer's recommendations for octane requirements and minimum lead content should be followed.

(c) Under no circumstances should premium gasoline be used in Government-owned vehicles, except for those vehicles that require premium gasoline.

**§ 101-38.401-2 Use of self-service pumps.**

Heads of agencies shall require the use of self-service pumps by their motor vehicle operators when purchasing fuel at commercial service stations with self-service pumps. When possible, operators should minimize the cost of fuel purchases by using service stations which accept the Standard Form 149, U.S. Government National Credit Card,

(see § 101-38.4901) for gasoline purchases at self-service pumps. The following exemptions from this policy may apply:

(a) The non-availability of self-service pumps at a service station under Defense Fuel Supply Center contract for fuel;

(b) The physical limitations of the vehicle operator;

(c) The refusal by a service station to honor the SF 149 for fuel pumped at self-service islands; and

(d) Severe weather conditions.

**§ 101-38.402 Replacement standards.**

(a) Table of minimum replacement standards.

TABLE OF MINIMUM REPLACEMENT STANDARDS

Vehicle Description	Life expectancy	
	Years	Miles
Passenger vehicles:		
Sedans/Station Wagons.....	6	60,000
Ambulances.....	7	60,000
Buses:		
Intercity-Type.....	N/A	280,000
City-Type.....	N/A	150,000
School-Type.....	N/A	80,000
Trucks:		
Less than 12,500 pounds GVWR.....	6	50,000
12,500—23,999 GVWR.....	7	60,000
24,000 pounds and over.....	9	80,000
4-or 6-wheel drive vehicles.....	6	40,000

(b) *Exceptions.* If a motor vehicle has been wrecked or damaged (including wear caused by abnormal operating conditions) beyond economical repair, the vehicle may be replaced without regard to replacement standards in this § 101-38.402 after review by the head of the executive agency or his or her designee.

**Subpart 101-38.5—Scheduled Maintenance****§ 101-38.500 Scope and applicability.**

This subpart prescribes agency requirements and guidelines covering a maintenance program for Government-owned motor vehicles, and is applicable to all agency-owned motor vehicles located in any State, Commonwealth, territory, or possession of the United States.

**§ 101-38.501 Agency requirements.**

Each executive agency shall establish a scheduled maintenance program for all of its Government-owned motor vehicles.

**§ 101-38.502 Guidelines.**

(a) A scheduled maintenance program should include a recorded, systematic procedure for the servicing and inspection of motor vehicles to:

(1) Ensure their safe and economical operating condition throughout the period of use;

(2) Meet established emission standards; and

(3) Meet warranty requirements.

(b) Agencies will ensure that all Government-owned, commercial design motor vehicles, model year 1976 and later, have inspection and servicing, including tune-ups, performed in accordance with the manufacturers' recommended schedules and specifications, or more frequently if local operating conditions require. Agencies should continue to perform inspections and servicing of model year 1975 and earlier Government-owned, commercial design motor vehicles in accordance with their established maintenance schedules and specifications.

(c) Proper maintenance ensures that Government-owned vehicles—

(1) Operate in the most energy efficient manner and

(2) Meet Federal and State emission standards, including safe and proper operation of the catalytic converter, during their warranted life.

**§ 101-38.503 Assistance to agencies.**

GSA will make available fleet management technicians, on a reimbursable basis, to assist agencies in establishing or revising their scheduled maintenance programs. Requests for fleet management assistance shall be submitted by owning agencies to the General Services Administration, ATTN: FBF, Washington, DC 20406.

**Subpart 101-38.6—Reporting Motor Vehicle Accidents****§ 101-38.600 Scope and applicability.**

This subpart provides for the availability of certain standard forms for use in reporting any accident involving a Government-owned or leased motor vehicle. Use of these forms is recommended for all executive agencies owning or using motor vehicles that are located within any State, Commonwealth, territory, or possession of the United States.

**§ 101-38.601 Accident reporting forms and their use.**

The standard forms available to all executive agencies for use in reporting motor vehicle accidents are listed below. Accident reports pertaining to agency-owned or -leased vehicles shall be processed in accordance with applicable agency directives. Accident reports pertaining to Interagency Fleet Management System vehicles shall be



processed in accordance with Subpart 101-39.4.

(a) Standard Form 91, Operator's Report of Motor Vehicle Accident (see § 101-38.4901), should be completed at the time and on the scene of the accident, insofar as possible, regardless of the extent of injury or damage. A Standard Form 91 should be carried at all times in Government-owned and leased motor vehicles.

(b) Standard Form 91-A, Investigation Report of Motor Vehicle Accident (see § 101-38.4901), should be completed by the person responsible for investigating an accident.

(c) Standard Form 94, Statement of Witness (see § 101-38.4901), should be carried at all times in Government-owned and leased vehicles and should be completed by persons who witness an accident. Standard Form 94 has been approved by the Office of Management and Budget under OMB control number 3090-0033.

#### **Subpart 101-38.7—Transfer, Storage, and Disposal of Motor Vehicles**

##### **§ 101-38.700 Scope and applicability.**

This subpart prescribes guidelines for the transfer, storage, and disposal of Government-owned motor vehicles and is applicable to all Government-owned, rented, and leased motor vehicles of an executive agency located in any State, Commonwealth, territory or possession of the United States.

##### **§ 101-38.701 Transfer of title to Government-owned motor vehicles.**

When disposing of a Government-owned motor vehicle, executive agencies shall use one of the two methods listed below for transfer of ownership:

(a) Motor vehicles based and titled in the District of Columbia shall be transferred as provided in section 4(c) of the Vehicle Title and Registration Regulations for the District of Columbia.

(b) Motor vehicles based outside the District of Columbia shall be transferred by executing Standard Form (SF) 97, the U.S. Government Certificate of Release of Motor Vehicle (see § 101-38.4901) and SF 97-A, Agency Record Copy of the U.S. Government Certificate of Release of a Motor Vehicle. (See § 101-38.4901). The use of these forms in foreign countries is optional.

(c) All certificates and copies shall be numbered consecutively by the owning agency. The numbers are to be typed or overprinted on all copies of SF 97 and SF 97-A in the space provided. Unnumbered certificates or certificates showing erasures and strikeouts will be considered invalid by State motor

vehicle agencies and will not be honored. Proper precautions shall be exercised by agencies to prevent blank copies of SF 97 from being obtained by unauthorized persons.

(d) Standard Form 97 and SF 97-A are issued together in a set as SF 97. Upon completion of the set, SF 97 shall be furnished the purchaser or donee; one copy of SF 97-A shall be furnished the owning agency; and one SF 97-A shall be furnished the contracting officer of the agency effecting sale or transfer of the motor vehicle. These requirements are not subject to the provisions of Pub. L. 96-511 and Federal Information Resources Management Regulations (FIRMR) 201-45.6. (Also see § 101-45.303-3.)

##### **§ 101-38.702 Storage.**

Government-owned, -rented, and leased motor vehicles of an agency should be stored so as to provide reasonable protection from pilferage or damage. In the interest of economy, open storage should be used whenever practicable and feasible. The determination as to whether or not it is "practicable or feasible" to use open storage space or a particular type of storage space at a particular location must be made by the agency after considering the nature of program demands and special requirements at that location. All unattended Government-owned or -leased motor vehicles should be locked, unless they are stored or parked in a closed building or enclosure.

##### **§ 101-38.702-1 Procurement of parking accommodations.**

Before acquiring other than temporary parking accommodations in urban centers (see § 101-18.102), agencies shall determine the availability of Government-owned or -controlled parking space in accordance with the provisions of § 101-17.101-6.

##### **§ 101-38.703 Sale of motor vehicles.**

GSA will not solicit trade-in bids when purchasing new motor vehicles for replacement purposes under the consolidated program. Used vehicles that are being replaced will be disposed of by sale as set forth in Part 101-46.

#### **Subpart 101-38.8—Standard Form 149, U.S. Government National Credit Card**

##### **§ 101-38.800 General.**

(a) Standard Form (SF) 149, U.S. Government National Credit Card, is authorized for use by Federal agencies to obtain services and supplies at service stations dispensing items provided by contractors listed in the Defense Fuel Supply Center publication,

"Government Vehicle Operator's Guide—Your Guide to Service Stations for Gasoline, Oil, and Lubrication" (DFSCH 4280.1). Activities requiring copies of the publication should submit requests to: Commander, Defense Fuel Supply Center, Attention: DSFC:OD, Cameron Station, Alexandria, VA 22304-6160.

(b) The SF 149 is the only Government-wide credit card approved for use by Federal agencies for the procurement of gasoline and services at service stations dispensing items provided by the contractors listed in the Defense Fuel Supply Center publication referenced in paragraph (a) of this § 101-38.800. However, agencies are not required to use the SF 149 for motor vehicles used for purposes in which identification as Government vehicles would interfere with the performance of the functions for which the vehicles were acquired and are used. Motor vehicles included in the exception for the use of SF 149 are listed in §§ 101-38.200(f) and 101-38.204.

(c) GSA will provide centralized management and control of the SF 149 program. Inquiries concerning the policy and administration of this program shall be directed to the General Services Administration, ATTN: FBF, Washington, DC 20406.

(d) Federal agencies are responsible for the establishment of administrative controls to ensure that the fuel and services procured by using the SF 149 are for the official use of the agency and that administrative controls are maintained to prevent unauthorized use of the SF 149. The General Services Administration, ATTN: FBF, Washington, DC 20406, will provide assistance in establishing automated SF 149 ordering procedures and management reporting systems.

(e) The SF 149 may only be used for any properly identified U.S. Government vehicle, boat, small aircraft, nonvehicular equipment, or motor vehicle that is leased or rented for 60 continuous days or more and is officially identified in accordance with § 101-38.202.

##### **§ 101-38.801 Obtaining SF 149, U.S. Government National Credit Card.**

GSA has developed ordering instructions for use by Federal agencies for the acquisition of the SF 149 and for reporting the status of the credit cards issued. Copies of the instructions may be obtained by contacting the General Services Administration, ATTN: FBF, Washington, DC 20406.



**Subpart 101-38.9—Federal Motor Vehicle Fleet Report****§ 101-38.900 Scope.**

This subpart sets forth the responsibility of all Federal agencies for developing policies and procedures for maintaining and reporting inventory, cost, and operating data on Government-owned and -leased vehicles.

**§ 101-38.901 General.**

From the data submitted by Federal agencies on Standard Form 82, Agency Report of Motor Vehicle Data, GSA will prepare and issue the "Federal Motor Vehicle Fleet Report." This report is a summary of the data submitted by agencies and is used to evaluate and analyze operations and management of the Federal motor vehicle fleet. GSA supplies copies of this report to the Congress, Federal agencies, and to other organizations upon request.

**§ 101-38.902 Records.**

Each owning agency is responsible for developing adequate accounting and reporting procedures to ensure accurate reporting of inventory, cost, and operating data needed for the management and control of motor vehicles.

**§ 101-38.903 Reporting of data.**

(a) Federal agencies shall use Standard Form 82, Agency Report of Motor Vehicle Data, to report vehicle inventory, cost, and operating data to GSA. Interagency Report Control Number 1102-GSA-AN has been assigned to this reporting requirement. (See § 101-38.4901.)

(b) The Standard Form 82 is divided into three sections. Sections I and III of the form are for reporting data relating to agency-owned and -leased vehicles and are to be completed by all agencies.

Section II of the form is for reporting data for large fleets of agency-owned vehicles. Detailed instructions for preparation of this form are located on the reverse of the form.

(1) Each owning agency shall submit a Standard Form 82 to GSA within 75 calendar days after the end of the fiscal year.

(2) Agencies shall report data for domestic fleets and foreign fleets on separate Standard Forms 82.

(3) If any vehicles are loaned to another executive agency during the reporting period, the owning agency shall report all data pertinent to the loaned vehicles.

(4) If accountability for a vehicle is transferred from one owning agency to another during the reporting period, each agency shall report those data appropriate to the period of time during which it retained accountability.

**Subparts 101-38.10—38.47 [Reserved]****Subpart 101-38.48—Exhibits****§ 101-38.4800 Scope of subpart.**

This subpart exhibits information referenced in the text of Part 101-38 that is not suitable for inclusion in that part.

**§ 101-38.4801 Examples of agency legends and identification.**

Legend	Letter height <sup>1</sup> (inches)	
	Mini- mum	Maxi- mum
For Official Use Only .....	½	¾
U.S. Government .....	¾	1
Department of the Interior .....	1	1½
Bureau of Reclamation .....	½	¾
For Official Use Only .....	½	¾
U.S. Government .....	¾	1
Department of Energy .....	1	1½

<sup>1</sup> Sizes are applicable to other than those used in vehicle windows.

**Subpart 101-38.49—Forms****§ 101-38.4900 Scope of subpart.**

This subpart provides the means for obtaining forms prescribed or available for use in connection with the subject matter covered in Part 101-38. These forms are designed to provide uniform methods of requesting and transmitting motor vehicle management information and uniform documentation of transactions among Government agencies and between Government agencies and related commercial motor vehicle industries.

**§ 101-38.4901 Standard Forms; availability.**

Standard forms referenced in this Part unless otherwise provided in the section prescribing the form, may be obtained by submitting a requisition in FEDSTRIP format to the GSA regional office providing support to the requesting activity.

**§ 101-38.4902 GSA Forms; availability.**

GSA forms referenced in this part may be obtained initially from the General Services Administration, ATTN: WBRD-D, Union and Franklin Streets Annex, Building 11, Alexandria, Virginia 22314. Agency field or regional offices should submit future requirements to their Washington, DC headquarters office which will forward consolidated annual requirements to the General Services Administration, ATTN: WBR, Washington, DC 20405.

Dated: March 3, 1986.

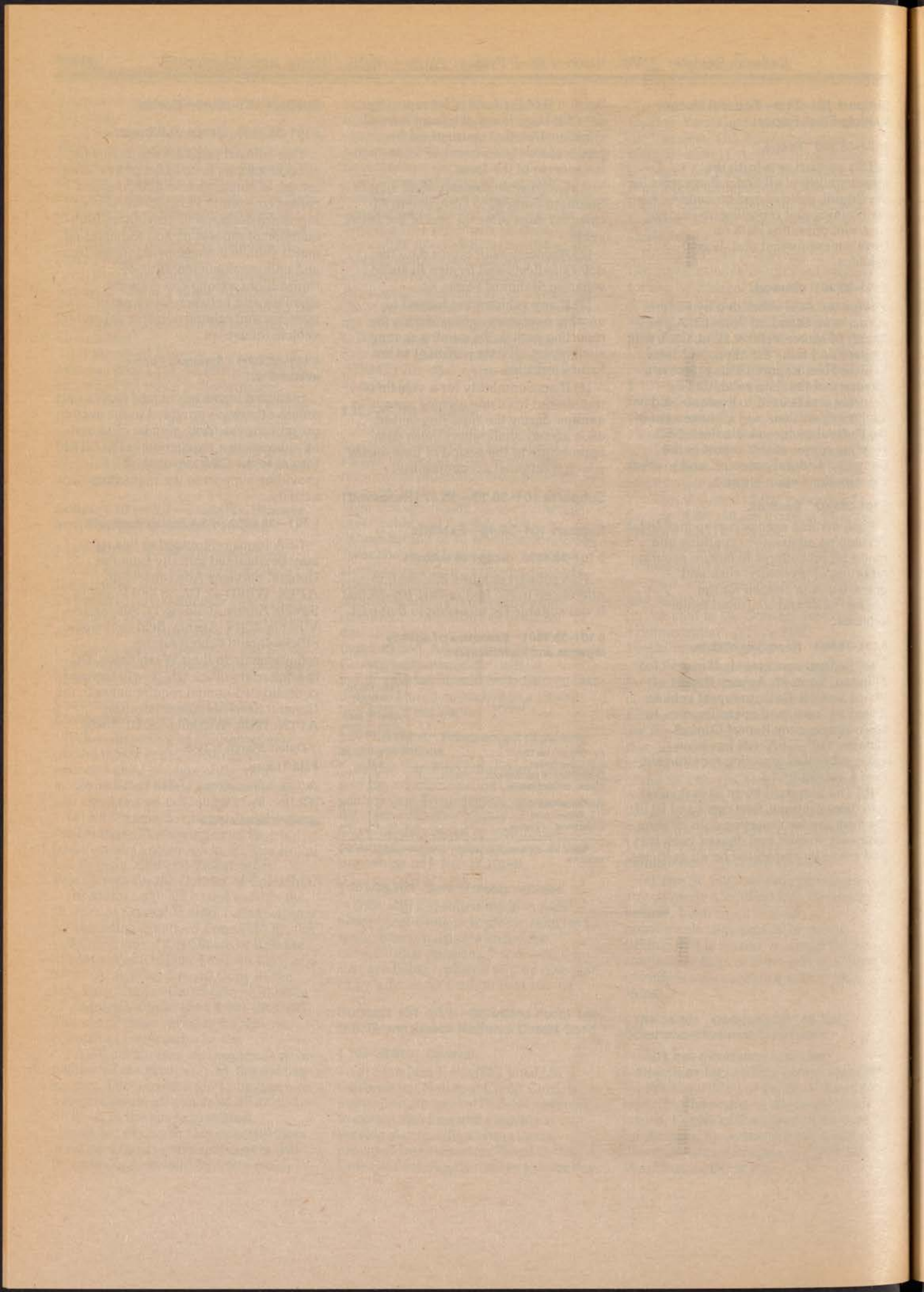
**Paul Trause,**

*Acting Administrator of General Services.*

[FR Doc. 86-7338 Filed 4-3-86; 8:45 am.]

BILING CODE 6820-24-M







Friday  
April 4, 1986

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**Part IV**

**Department of  
Energy**

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**Office of the Secretary**

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**48 CFR Part 970**

**Acquisition Regulation; Management and  
Operating Contracts; Proposed Rule;  
Extension of Comment Period**



Page 1

Department of  
Energy

Office of the Secretary

400 West 12th Street

Washington, D.C. 20540

Attention: Contract Management and

Acquisition Support Division

Room 3000

Washington, D.C. 20540

Telephone: (202) 586-5000

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Cable: DEPT OF ENERGY

Washington, D.C.

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**DEPARTMENT OF ENERGY****Office of the Secretary****48 CFR Part 970****Acquisition Regulation; Management and Operating Contracts****AGENCY:** Department of Energy.**ACTION:** Notice of Proposed rulemaking, extension of comment period.

**SUMMARY:** On March 4, 1986, at 51 FR 7469, the Department of Energy (DOE) published a notice of proposed rulemaking (NOPR) to amend the Department of Energy Acquisition Regulation (DEAR). That notice invited public comments through April 3, 1986. The purpose of this notice is to extend the comment period for an additional 30 days.

**DATE:** Written comments should be submitted no later than May 3, 1986.

**ADDRESS:** Comments should be addressed to: U.S. Department of Energy, Rudolph J. Schuhbauer, Business and Financial Policy Branch (MA-421.2), 1000 Independence Avenue, SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Rudolph J. Schuhbauer, Business and Financial Policy Branch (MA-421.2), Procurement and Assistance, Management Directorate, Washington, DC 20585, (202) 252-8173.  
Paul J. Sherry, Office of the Assistant General Counsel for Procurement and Financial Incentives (GC-43), Washington, DC 20585, (202) 252-1526.

**SUPPLEMENTARY INFORMATION:** In the referenced NOPR, DOE proposed to amend the DEAR to implement the

requirements of section 1534 of the Department of Defense Authorization Act, 1986 (Pub. L. 99-145). The intent of the proposed DEAR amendments is to establish uniform regulations which will prohibit the Department's management and operating contractors from claiming as allowable reimbursable costs the types of costs which have been cited to be not allowable in section 1534 of Pub. L. 99-145.

**List of Subjects in 48 CFR Part 970**

Government procurement.

Issued in Washington, DC on April 2, 1986.

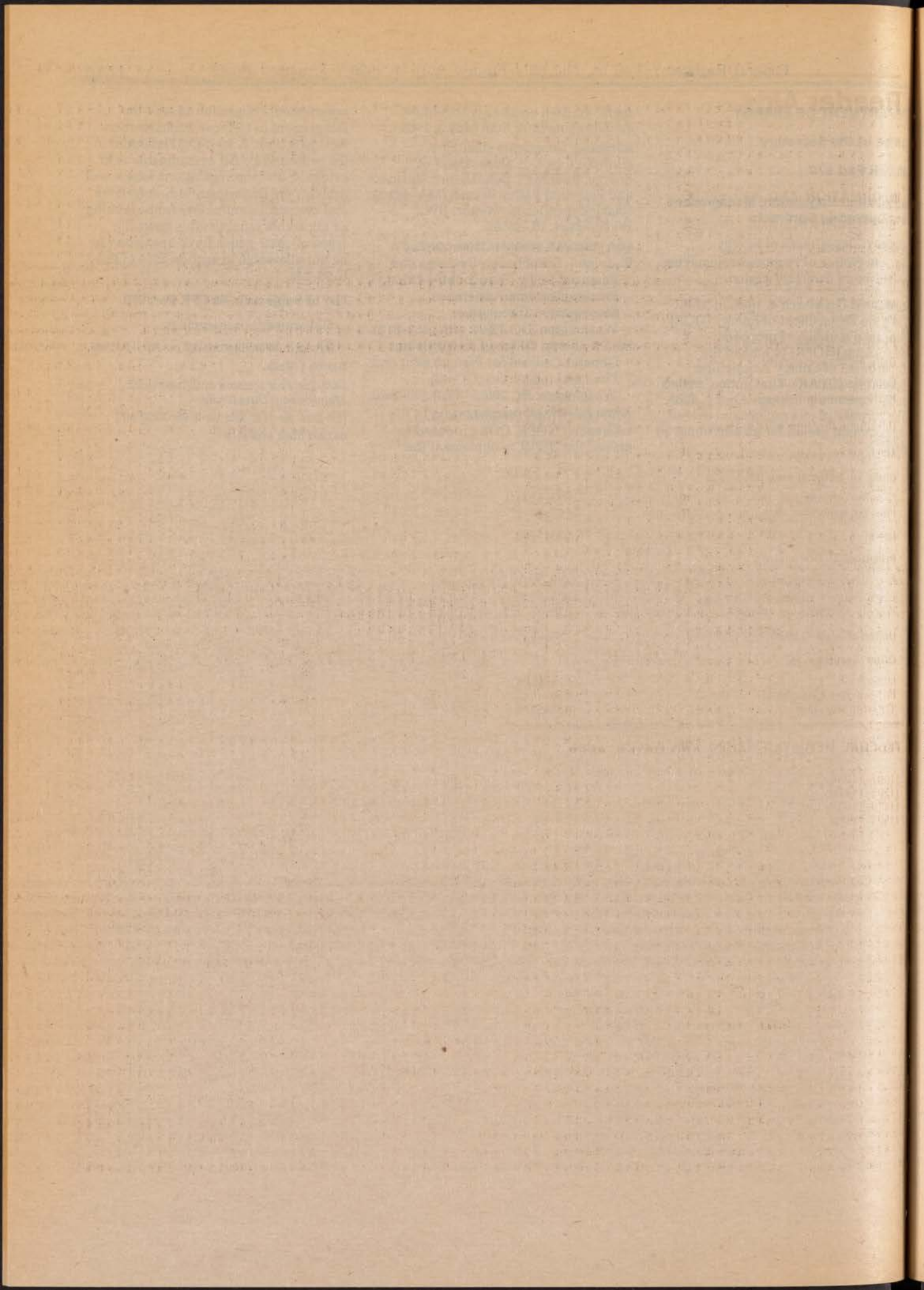
**Berton J. Roth,**

*Director, Procurement and Assistance,  
Management Directorate.*

[FR Doc. 86-7710 Filed 4-3-86; 10:16 am]

**BILLING CODE 6450-01-M**







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Federal Register

Vol. 51, No. 65

Friday, April 4, 1986

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Rev. 1-1-60

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